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## **PART I PURPOSE AND AUTHORITY**

The responsibility for providing adoption services to children in foster care is placed with the Local Boards of Social Services by Chapters 9, 12, 13, and 14 of Title 63.2 of the *Code of Virginia* and regulations promulgated by the State Board of Social Services.

Section 63.2-319, *Code of Virginia*, requires each local board to provide child welfare services. The definition of “child welfare services” includes:

Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate.

Section 63.2-1221, *Code of Virginia*, provides that a licensed child-placing agency or local board of public welfare or social services may place for adoption, and is empowered to consent to the adoption of any child who is properly committed or entrusted to its care...when the order of commitment or the entrustment agreement...provides for the termination of all parental rights and responsibilities....

Section 63.2-100, *Code of Virginia*, defines adoptive home and adoptive placement:

“Adoptive home” means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.

“Adoptive placement” means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

The Virginia Administrative Code (22 VAC 40-260) provides a definition of adoption “Adoption” means a legal process in which a person’s rights and duties toward birth parents are terminated and similar rights and duties are established with a new family”.

In addition to State codes, adoption services are also governed by federal laws and regulations.

**Title IV-B** of the Social Security Act governs Child Welfare Services and Promoting Safe and Stable Families (formerly known as Family Preservation and Support Services).

Title IV-B, Subpart 1, Child welfare services, section 422.(a) of the Social Security Act. In order to be eligible for payment under this subpart, a state must have a plan for child welfare services which has been developed jointly by the secretary and the state agency....Each plan for child welfare services under this subpart shall.....

(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed....and

(12) contain assurances that the state shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.

Title IV-B, Subpart 2—Promoting Safe and Stable Families, section 432

(a) Plan Requirements.—A state plan meets the requirements of this subsection if the plan--- contains assurances ....that ...expenditures shall be for programs of family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services....

**Title IV-E** of the Social Security Act governs the provision of foster care and adoption services for states interested in receiving federal money to fund these programs.

Title IV-E, Section 473(a)(1)(A) of the Social Security Act. Each state having a plan approved under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs----

## **PART 2**

### **GUIDING PRINCIPLES**

The goal of adoption is the third ranking permanency planning goal (See Volume VII, Section III, Chapter B, Foster Care). The purpose of adoption services is to help children who have been permanently and legally separated from their birth parents become permanent members of a new family. The Virginia Administrative Code (22 VAC 40-220) sets forth the guiding principles for adoption services.

#### **2.A 22 VAC 40-220-20. Guiding Principles.**

To achieve permanency for children through adoption, the agency shall provide services that are based on the best interest of the child and adhere to the following principles:

- 2.A.1 Legal adoption offers a child greater permanence and security than foster care;
- 2.A.2 Every child who cannot be returned home is adoptable, regardless of disabilities, age, race or other special needs;
- 2.A.3 The child is the client and services shall be focused on finding families for children, rather than on finding children for families;
- 2.A.4 Continuity of nurturing relationships is critical to a child's growth and development. Therefore, adoptive planning shall reflect the child's need to be in a permanent placement as soon as possible; shall recognize the importance of placing siblings in the same adoptive home; and shall consider foster parents with whom the child has developed emotional ties as a primary adoptive resource for the child.
- 2.A.5 Adoptive planning is not limited to children for whom adoptive families are readily available, but is provided for all children through adequate, effective recruitment efforts;
- 2.A.6 Adoption does not necessarily require complete severance of contacts with birth relatives, foster parents, or other people with whom the child has a significant relationship;
- 2.A.7 Subsidy helps achieve the permanency of adoption for children who might otherwise remain in long term foster care;

- 2.A.8 In assessing prospective adoptive families, the most important criterion is the family's ability to parent a child not born to them. Marital status, income level, education, age, health, and other factors are to be considered only in terms of their relationship to the applicant's ability to parent an adopted child;
- 2.A.9 Beyond its legal definition, adoption is a life long process, therefore, services which meet the unique needs of adoptive families should be provided before and after finalization of the adoption;
- 2.A.10 The number of children in a family is not a determining factor in approving a family for adoption or in considering an approved family for placement; rather, casework practice and service provision shall be focused on assessing the parent's ability to meet the needs of the specific child as well as the needs of the whole family unit;
- 2.A.11 Adult adoptees have the right to full disclosure of information from their records, except that which would reveal the identity of their family of origin;
- 2.A.12 Prior to placement, adoptive parent(s) have the right to full factual information about the child and the child's birth family, except that which would reveal the identity of the child's family of origin.

There are two additional guiding principles that are governed by federal laws:

Title IV-E, Section 471(a) (18) of the Social Security Act provides that... neither the state nor any other entity in the state that receives funds from the Federal Government and is involved in adoption may:

- (A) deny to any person the opportunity to become an adoptive parent on the basis of race, color, or national origin of the person or of the child involved; or
- (B) delay or deny placement of a child for adoption on the basis of race, color, or national origin of the adoptive parent or the child involved.

Title IV-E, Section 471(a) (23) of the Social Security Act provides that a state shall not be eligible for any payments under this section if the state has:

- (A) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or
- (B) failed to grant an opportunity for a fair hearing to an individual whose allegation of a violation of (A) is denied by the state or not acted upon by the state with reasonable promptness.

### PART 3 PRE-PLACEMENT SERVICES

The first goal for a child in foster care is to return to the birth parent(s) or prior custodian(s). When it has been determined that the child cannot be returned home or to the prior custodians, the second goal is to place the child with and transfer custody to relatives. After these two goals have been ruled out, adoption becomes the goal for the child and parental rights must be terminated.

If the goal of adoption is being selected, the two higher-ranking goals must have been fully explored and ruled out, consistent with the child's best interest. Services must be provided to the child, the birth parent(s), foster parents and adoptive parents. The Foster Care Service Plan identifies services that must be provided. Refer to Volume VII, Section III, Chapter B, Foster Care, for information on the Foster Care Service Plan.

Section 16.1-281.B, *Code of Virginia*, provides that the foster care plan shall be designed to lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. However, if the department, child welfare agency or team determines that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interest of the child, in a separate section of the plan the department, child welfare agency or team shall (i) include a full description of the reasons for this conclusion (ii) determine the opportunities for placing the child with a relative or in an adoptive home.

OASIS: Until the child is placed in the adoptive home with a **signed adoptive home agreement**, the child's case type is based on his/her foster care status and all data is entered into the child's foster care record.

#### 3.A. Termination of Parental Rights

Federal and state laws require a petition to terminate parental rights at the child's 14 month permanency planning hearing unless compelling reasons are documented for not terminating parental rights. Agencies are also required to petition for termination of parental rights if a child has been in care for any 15 of the last 22 consecutive months. Agencies are not required to petition for termination of parental rights under the following circumstances:

- The agency documents and provides compelling reason why it is not in the best interest of the child to terminate parental rights;
- The child resides with relatives and the relatives do not want to adopt the child;  
or

- Services have not been provided to the parent to return the child home safely.

Title IV-E, Section 475 (5) (C) and (E) of the Social Security Act. Each child has a case plan designed to achieve placement in a safe setting. Procedural safeguards will ensure that each child in foster care under State supervision will have permanency hearings 12 months after the child enters foster care and not less frequently than every 12 months thereafter...which hearing will determine the permanency plan for the child that includes whether the child will return home, or be placed for adoption and the State will file a petition for termination of parental rights. In the case of a child in foster for 15 of the most recent 22 months...the State shall petition for termination of parental rights.

A petition for termination of parental rights may be filed sooner than the above mandated time frames if grounds for termination exist (see 3.A.11.1).

When adoption is the best plan for a child in foster care, securing legal authority to place the child for adoption is the initial objective toward achieving the goal. A child can be placed for adoption once parental rights are terminated and the agency has been granted the authority to place for adoption. The termination process begins with knowing whose rights must be terminated and how they are terminated. These two points are outlined below:

3.A.1. All individuals whose rights must be terminated:

3.A.1.1 The mother,

3.A.1.2 The legal father, who may or may not be the biological father, is the mother's husband who is presumed to be the child's legal father. Even though he may not be the child's birth father, his legal rights must be terminated.

If the mother is divorced, and the child was born within 10 months of the divorce decree, the former husband is considered the legal father.

3.A.1.3 The biological father, if not the legal father, who is not married to the mother, including the putative father.

Although the biological father does not have the same rights as a legal father, he does have the right to notice of any action taken to free his child for adoption.

### 3.A.2 How Parental Rights are Terminated

Parental rights can be terminated either voluntarily or involuntarily.

### 3.A.3. Voluntary Methods of Termination

Parents may voluntarily terminate their rights either by signing a permanent entrustment agreement or by petitioning the court to be relieved of their rights. (§63.2-900, 63.2-903, and 16.1-278.3)

### 3.A.4 Permanent entrustment agreement (032-02-226/2): How it is used

An entrustment agreement is a binding agreement between the parent(s) and the local Board. This agreement provides a method for the parent(s) to voluntarily relinquish parental rights and give the agency authority to place for adoption.

### 3.A.5 When the permanent entrustment agreement is used

The following are instances when the signing of the agreement is the only action required for the child to be legally free for adoption:

3.A.5.1 When all parents are willing to relinquish their rights to the child;

3.A.5.2 When the unmarried mother is willing to permanently entrust and the putative father will sign an affidavit denying paternity, acknowledging paternity or neither denying nor acknowledging paternity. The affidavit must include a statement that he waives all rights to further notice.

3.A.5.3 When the unmarried mother is willing to permanently entrust and sign an affidavit that the identity of the father is not reasonably ascertainable. This affidavit should include a statement regarding the reason why the father's identity cannot be ascertained. If there is any question regarding the validity of the mother's affidavit, the agency must petition the court to terminate parental rights.



- 3.A.5.4 When the unmarried mother permanently entrusts and the father can be informed of the mother's entrustment by certified or registered letter. The father's name must appear on the return receipt. He has 21 days after receipt of the letter to object to the mother's entrustment.

A copy of the original letter and the signed receipt must be retained in the child's record. If the letter cannot be delivered to the father, it is necessary to petition the court for termination of his rights. (§16.1-277.01)

- 3.A.6 When the entrustment agreement is signed

- 3.A.6.1 Sign any time after the child's birth;

- 3.A.6.2 Use a separate form for each parent who entrusts and for each child to be entrusted.

- 3.A.7 How the entrustment agreement is revoked

- 3.A.7.1 The agreement can be revoked any time up to the signing of the adoptive home placement agreement, unless the permanent entrustment agreement has been approved by the court and all parental rights have been terminated.

- 3.A.7.2 The entrustment agreement is revocable by either birth parent until (i) the child has reached the age of 25 days and (ii) 15 days have elapsed from the date of execution.

- 3.A.7.3 When the agreement is revoked, custody of the child must be returned to the birth parent. In the event that the custody of the child is of controversy, custody will need to be determined by court action.

- 3.A.7.4 Upon proof of fraud or duress, a permanent entrustment agreement may be declared invalid and the rights and obligations of the parent(s) restored by the court order if the final order of adoption has not

been entered and the court has not approved the permanent entrustment agreement and issued a final order terminating parental rights.

### 3.A.8 Restrictions placed on the permanent entrustments

When a child enters care through a permanent entrustment agreement, there must be a subsequent court order. The court order must be obtained within 180 days (6 months) of the date the entrustment is signed. The order must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child, or that there is no less drastic alternative than removal of the child from the home. The court order must also include a finding that reasonable efforts have been made to prevent removal from the home. The effect of the court's order approving a permanent entrustment is to terminate the parental rights of the parents who signed the agreement.

Section 16.1-277.01, *Code of Virginia*, requires in any case in which a child has been entrusted pursuant to §§ 63.2-900, 63.2-903 or 63.2-1817, to the local board of social services or to a child welfare agency, a petition for approval of the entrustment by the board or agency shall be filed.

Section 16.1-277.01, D, *Code of Virginia*, provides that at the conclusion of the hearing regarding the entrustment agreement, the court shall make a finding, based on a preponderance of evidence, whether approval of the entrustment agreement is in the best interest of the child. However, in the case of a permanent entrustment involving termination of parental rights, the finding shall be based upon clear and convincing evidence.

### 3.A.9 Counseling Services That Must Be Provided

When birth parents are considering voluntarily terminating their parental rights by signing a permanent entrustment agreement, the birth parents shall be provided the opportunity for counseling. Counseling should address issues related to but not limited to:

- 3.A.9.1 Counseling to include services available to maintain the child at home; placement with relatives; or temporary foster care and services to return the child home;

- 3.A.9.2 The long term impact of the decision to place the child for adoption on birth parent(s) and child;
- 3.A.9.3 Helping birth parent(s) understand the importance of sharing family, medical and genetic information for the child to be adopted. This information should be gathered during the counseling session, if possible; and
- 3.A.9.4 Receiving from birth parent(s), or informing them of, newly learned medical or genetic information that is important for the adopted child and family or for the birth parent(s) and their present children.

The Court will base the determination on whether reasonable efforts have been made to prevent the child's removal on the fact that counseling to birth parents was provided.

3.A.10 Court petitions to voluntary termination of parental rights

The second method of voluntary termination includes the following:

- 3.A.10.1 Parental petition for relief of care and custody (§16.1- 277.02)  
  
Parent(s) file a joint petition with the juvenile and domestic relations district court, requesting termination of parental rights. When appropriate, the agency should join in the filing of the petition.
- 3.A.10.2 Appeal of Court Order  
  
Once the agency has petitioned the court to approve a permanent entrustment agreement and the court has held a hearing and issued a final order terminating parental rights, the parent cannot revoke the agreement. The parent(s) may appeal the order. (§16.1-296).

### 3.A.11 Involuntary method to terminate parental rights (§16.1-283).

If it is not possible to achieve termination of parental rights voluntarily, then the agency must petition the court for termination of parental rights (TPR). These procedures define how parental rights are terminated involuntarily.

The agency need not have identified an available family to adopt a child prior to termination being sought or the court's entering a termination order. (§16.1-283a).

Section 16.1-283, *Code of Virginia*, provides for the residual termination of a parent or parents may be terminated by the court ...if the petition specifically requests such relief.

#### 3.A.11.1 Grounds for termination of parental rights

The court uses the following grounds to make determinations that termination of parental rights is in the best interests of the child. The legal standard for making this finding is clear and convincing evidence.

The parental rights of a child placed in foster care as a result of court commitment, an entrustment agreement, or other voluntary relinquishment by the parent or parents, may be terminated based on the following grounds:

##### A.11.1.1 Failure to maintain contact (§16.1-283 C)

The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care. Lack of contact continues even with the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to

strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition.

A.11.1.2 Failure to make progress (§16.1-283 C)

The parent or parents, without good cause, have been unwilling or unable, within a reasonable period not to exceed twelve months from the date the child was placed in foster care, to remedy substantially the conditions which led to or required Continuation of the child's foster care placement. Lack of progress exists even with the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end.

The foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

A.11.1.3 Abandonment (§16.1-283 D)

The child was abandoned and the identity of the whereabouts of the parent or parents cannot be determined after a diligent search; and the child's parent or parents, guardian or relatives have not come forward to identify such a child and claim a relationship to the child within three months following the

issuance of an order by the court placing the child in foster care.

A.11.1.4 Convictions for certain crimes (§16.1-283 E)

The parent has been convicted of an offense under the laws of this Commonwealth or a substantially similar law of any other state, or any foreign jurisdiction which constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child, or

The parent has been convicted of an offense under the laws of this Commonwealth, any other state, or any foreign jurisdiction which constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense or the other parent of the child. "Serious bodily injury" means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

**The parent has subjected any child to aggravated circumstances. Aggravated circumstances means torture, chronic or severe abuse, or chronic or severe sexual abuse if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: evinces a**

**wanton or depraved indifference to human life or has resulted in the death or such a child or in serious bodily injury to such a child. Chronic abuse or chronic sexual abuse means recurring acts of physical abuse which place the child's health, safety and well-being at risk. Severe abuse or severe sexual abuse may include an act or omission that occurred only once, but otherwise meets the definition of aggravated circumstances.**

- A.11.1.5 Termination of residual rights to another child (§16.1-283 E and F)

The residual parental rights of a sibling of the foster child have previously been involuntarily terminated.

- A.11.1.6 Unlikelihood that conditions can be corrected (§16.1-283 B1 and B2)

For children who have been found by the court to be abused and neglected and in foster care, the following grounds may be used:

(i) The neglect and abuse suffered by the child presents a serious and substantial threat to his or her life, health, or development; and

(ii) It is not reasonably likely that the conditions which resulted in neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care as well as efforts after placement.

Evidence of this is as follows:

- The parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and state of development;
- The parent or parents have habitually abuse or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or
- The parent or parents, without good cause, have not responded to or followed through with appropriate available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

### 3.A.12 Procedures to follow for court termination

The worker should consult with the agency attorney to determine whether there are grounds for termination of parental rights and to prepare for a termination of parental rights hearing. The agency may hire an additional attorney for the child if the guardian ad item needs assistance when the agency's petition is contested, the court's decision is appealed, or a separate petition is filed, any of which appear contrary to the child's best interest. Use state pool funds to pay the attorney's fee. Court related costs, such as



assistance of expert witnesses, may be purchased as a foster care service.

The agency must assess prior to the permanency planning hearing whether termination of parental rights is in the best interests of the child. It would then file a petition and service plan with the court with the goal of adoption 30 days prior to the permanency planning hearing.

The service plan should document that termination of parental rights is in the child's best interest. The service plan changing the goal to adoption and the petition may be submitted to the court and considered by the court at the same hearing (§16.1-283 A)

The petition must specifically request that parental rights of the parents be terminated and that the agency be given the authority to place and consent to adoption of the child.

If a matter involving the child's custody has previously gone to a circuit court, that court has jurisdiction and the petition must be filed there. The court will set a hearing date.

3.A.12.1 Notifying interested persons of the TPR court hearing. (§16.1-263)

It is the local agency's responsibility to submit the service plan 30 days prior to the hearing in order to allow the court sufficient time for giving legal notice.

A.12.1.1 Who gives notice

The court where the hearing will be held is responsible for giving legal notice.

A.12.1.2 Who receives notice

- Parents;
- Child if 12 years of age or older;
- Guardian or legal custodian;
- Parents' attorney;
- Guardian Ad Litem;
- Court appointed special advocate

(CASA);

- Current foster parents; and
- Other necessary parties.

A.12.1.3 How Notice is given for TPR hearing

- Delivered in person by sheriffs, their deputies, and police officers in counties or cities, or by any other suitable person designated by court;
- Certified mail with addressee only signing the return receipt; or
- Order of publication. Orders of publication must state the purpose of the petition to be heard and where and when the hearing is to be held. Such orders must be published for four successive weeks, in such newspaper as the court may prescribe. They require the defendant to appear to protect his interests on or before the date stated in the order.

A.12.1.4 When notice is not required for TPR

Notice is not required if a parent:

- Has signed a permanent entrustment agreement;
- Has signed an affidavit waiving all rights to notice; or
- Is represented by counsel and counsel receives notice.

Situations when the putative father may or may not need notification:

- If his identity and location are known, the agency should contact him about signing a permanent entrustment agreement or affidavit waiving all rights to notice. If he is unwilling to sign an agreement or affidavit, the court will not notify him of the hearing.
- If the father's identity is known, but his current whereabouts are unknown, the agency must attempt to contact him at this last known address by registered certified letter. This must be done before petitioning the court for termination of his rights. To satisfy the "diligent efforts" requirement of the law, the agency must attempt to locate the father through all sources such as relatives, former employees, social security, etc. If he cannot be found or if his address cannot be ascertained, the court may order service of summons by publication. (§16.1-264 A).
- If the father's identity is not known or not reasonably ascertainable, the agency must secure an affidavit from the mother to this effect. This affidavit must be presented to the court. If the court certifies the identity of the father is unknown, notice is not required. When the agency has any question regarding the validity of the mother's affidavit, the matter should be brought to the court's attention. (§16.1-263 E)
- If the mother knows the father's identity but she refuses to reveal it, the court certifies on the record that

the father's identity is not reasonably ascertainable. The court may appoint a guardian ad item to protect the rights of the unknown father.

3.A.13      Transportation of prisoners for testimony in child welfare cases (§§16.1-276.2, 16.1-276.3, 17.1-513.2)

If a parent is incarcerated, the court may authorize the Department of Corrections to have the prisoner transported to provide necessary testimony in hearings related to child welfare. The testimony of prisoners can also be acquired using electronic video and audio communication systems or telephonic communication systems in lieu of a personal appearance if authorized by the court.

3.A.14      Order to terminate parental rights

After the hearing, the court will send the agency a copy of the termination order. The order must specify termination of all parental rights with the agency's authority to place and consent to adoption. If not specified, the agency must ask the court to clarify, in writing, the intent of the order. If a parent denies paternity or if the identity of a parent is unknown, the court order must still specify termination of all parental rights.

3.A.15      Appeals

Appeals must be made to a juvenile court within 10 days of the entry of the order terminating parental rights. The circuit court should schedule the appeal within 90 days from the day that it was filed. (§16.1-296) A child is not legally free for adoption until the appeal has been settled.

3.A.16      Status of child after TPR has been achieved

The child remains in the custody of the local board until final order of adoption. The court must continue annual foster care review hearings for children whose parental rights have been terminated until a final order of adoption is entered. Administrative Panel Reviews must continue, alternating with the court's Foster Care Review Hearings every six months. The Foster Care Service plan must be reviewed at each six-month hearing or review.

The Adoption Progress Report serves as the primary documentation by the agency of its efforts to place the child in an adoptive home in a timely manner in accordance with the foster care plan. The Adoption Progress Report is filed with the court every six months from the date of final order terminating parental rights until the final order of adoption is entered on behalf of the child. The Adoption Progress Report is further addressed in section 3.I.

OASIS: Termination of parental rights is documented on two screens. The paths are: Workload, Court, CI Crt Info, Hearing/Rev and Workload, Court, CI Crt Info, Par Rights

### 3. B. Planning For Adoption Placement

The first step in planning for adoption placement involves assessment of the child's needs. Assessment is an ongoing process and continues for as long as the child remains in foster care. For some children assessment begins even before the child comes into foster care, with a protective service risk assessment. The outcome of any assessment should be a clear, specific identification of the child's strengths and needs. There must be documentation in the record that supports the assessment. For example, a child must not be identified mentally retarded without the results of a psychological evaluation and medical report included as a part of the record.

The following briefly describes some of the assessments which are made. For detailed information, see Volume VII, Section III, Chapter A (Child Protective Services) and Chapter B (Foster Care).

#### 3.B.1 Child Protective Services Initial Safety Assessment

**It is critical that the Child Protective Services Worker conducting the CPS investigation immediately make an initial assessment of the circumstances surrounding the allegation of abuse or neglect and identify the immediate safety needs of the child and family. Factors examined in this assessment include:**

- 3.B.1.1      The immediate danger to the child, including whether the child sustained a mental or physical injury warranting immediate attention or care, and whether the child is at imminent risk of serious abuse or neglect;**

- 3.B.1.2      The immediate needs of the family, including whether the family has the capacity to protect the child from imminent harm and whether any other family members are at risk, and**
- 3.B.1.3      Whether a safety plan is required due to a conclusion that one or more children are unsafe or conditionally safe.**

### 3.B.2 The Protective Services Risk Assessment

This assessment is completed initially by the protective service worker during a child protective service investigation and periodically throughout the life of the case. The purpose is to determine the likelihood of a child being harmed by a caretaker and the services to be provided to reduce risk of harm. This assessment includes information related to the following factors:

- 3.B.2.1      The incident of abuse and degree of harm to the child;
- 3.B.2.2      The child and his/her physical and mental vulnerability;
- 3.B.2.3      The caretaker and his/her ability or willingness to stop the abuse;
- 3.B.2.4      The family and its ability or willingness to provide protection for the child; and
- 3.B.2.5      Any other factors which contribute to greater or lesser risk to the child.

### 3.B.3 The initial foster care assessment.

Once a child comes into foster care, an initial assessment is completed by the foster care worker within 60 days of placement outside of the home. It is a separate identifiable part of the foster care record and includes:

- 3.B.3.1      Identifying information about the child;
- 3.B.3.2      Circumstances which led to the child coming into foster care;
- 3.B.3.3      Background history about the child and birth family;

- 3.B.3.4 A summary of the child's and family's needs; and
- 3.B.3.5 Identification of parental conditions or circumstances that need to change in order to reduce risk of harm to the child and to achieve the goal of return home.

OASIS path: Workload, Case Plan, FC, Assess

#### 3.B.4 Foster care reassessments

Reassessments are completed every six months and are documented on the Foster Care Service Plan Review (Form #032-02-503/2). The reassessments include:

- 3.B.4.1 The services which have been offered to the child and family to reduce risk of harm to the child so that the child can return home;
- 3.B.4.2 The current situation of the birth family or prior custodian;
- 3.B.4.3 The current situation of the child and the child's adjustment to placement including:
  - B.4.3.1 Pertinent information about birth, medical and developmental history of the child, if not already documented in the record.
  - B.4.3.2 Information on current health and physical development and recommendations for any necessary follow-up treatment or further check-ups with specialists.
  - B.4.3.3 If there are problems, current information on developmental and educational functioning with specific descriptions and recommendations regarding peer relationships, coping mechanisms, learning disabilities, emotional symptoms or behavior problems.

- B.4.3.4 Information from the foster parents about the child's adjustment to foster care and the child's current level of social and emotional adjustment.
- B.4.3.5 Information regarding the child's current relationship with siblings and if siblings are not placed together, services that need to be provided when they are reunited to achieve any of the goals.
- B.4.3.6 Information about the child's relationship with the birth family, including extended relatives; and an assessment of risk to the child should the child return home.
- B.4.3.7 Information about the child's relationship with the foster parents to assess the degree of attachment between foster parents and the child;

- 3.B.4.4 The reasons for retaining the child in care, including efforts made to return the child home; and
- 3.B.4.5 The status of the responsibilities of the parent or prior custodians, including behaviors that put the child in jeopardy.

OASIS path: Workload, Case Plan, FC, Service Plan, Review

### 3.B.5 Adoption Assessment

- 3.B.5.1 When the goal of adoption is selected, consultation between the foster care and adoption staff must occur. An assessment must be made to determine that all necessary information has been obtained. Additional information may need to be gathered. This information is critical as it will serve as a basis for identifying adoption services, will be used in the selection of an appropriate adoptive home, and will be the only information available to the child after adoption about the child's birth family and background. If any of this information is missing from the foster care record, one of the services that must be identified on the Foster Care Service Plan will be to obtain the missing information.



The following information must be obtained if it is not in the record:

- B.5.1.1 Detailed information about birth, medical and developmental history of the child and family, including genetic information.
  - B.5.1.2 Current information on health, developmental and educational functioning of the child; and recommendations for any necessary follow-up treatment or further check-ups with specialists. If medicals and psychologicals have not been done in the last 12 months, the adoptive placement plan must reflect that these will be obtained once termination of parental rights has been achieved.
  - B.5.1.3 Information from foster parents about the child's attitudes, habits, and daily routines, their methods of discipline and pertinent observations as to the child's reactions and relationships in their home, likes and dislikes, nicknames, and favorite toys.
  - B.5.1.4 Information regarding whether the siblings are presently together in foster care and the relationships of the siblings to each other. **It is the policy of the state of Virginia to place siblings in a single adoptive home when it is determined to be in the best interests of the children.**
  - B.5.1.5 Information about the child's relationship with the birth family, including extended relatives, and an assessment of the impact of termination of parental rights on the child and family.
  - B.5.1.6 Information about the child's relationship with the foster parents to assess the level of bonding to determine whether the foster parents should be considered as an adoptive resource for the child.
- 3.B.5.2 A determination must be made as to whether the child has special needs. This determination should result from the assessment, should focus on whether the child has

individual characteristics that would make the child hard to place for adoption, and is for the purpose of determining potential eligibility for adoption assistance.

### 3.C Providing Foster Care Services

Foster care services must be provided until the child is placed in an adoptive home and an Adoptive Placement Agreement has been signed (See Part 5 for foster care services that may be continued after placement in the adoptive home).

### 3.D Preparing The Child For Adoption

Preparing the foster child for the permanency of adoption should include:

3.D.1 Establishing a relationship of trust and confidence between the child and the worker who will serve as a bridge between the foster home and the adoptive home;

3.D.2 Putting the past into proper perspective for the child with continuous assistance in understanding and accepting the reality of his birth family's status, past placements and relationships, and why he cannot return to his own parents or remain with his foster parents;

3.D.2.1 Helping the child to communicate his feelings about himself and significant others, his fantasies, hopes, and fears in accordance with his age and ability to verbalize. This "grief work," helping the child say good-bye to and let go of the past, should have already been done. If it has not, it must be completed now. It may require contact with the birth family and consultation with both the protective service worker and the foster care worker.

A good tool to use with children to do this is to assist the child in assembling a personal "Life Book". A Life Book is a scrapbook or notebook of pictures of the child, pictures of important people such as birth parents and other caretakers, and memorabilia such as might be found in a baby book. The pictures and memorabilia should be accompanied by a written

description of who, how, and why. The written part of the Life Book is as important as the pictures;

3.D.2.2 Enlisting the cooperation of foster parents and other people who are important to the child, including teachers, siblings, ministers, etc. in supporting the plan for adoption is essential for a child of any age and includes the following:

- D.2.2.1 Recognizing the advantage of participation by these individuals in the transfer of trust during the adoptive placement process;
- D.2.2.2 Acknowledging their special contributions to the child and understanding the discomfort of foster parents in letting the child go to another family;
- D.2.2.3 Enabling them to understand the child's ambivalence and anxiety about leaving them and giving them a specific role to play in helping the child to move away from them;
- D.2.2.4 Involving these individuals in the process of selection of a family for the
- D.2.2.5 Helping to support the adoptive placement when appropriate.

**3.D.2.3 Concurrent Planning**

**When appropriate, the agency should develop a concurrent plan for permanency, while the agency is working toward returning the child home. Early on in the foster care placement, the agency may be taking steps toward other permanent arrangements for the child in the event that the parents are unable to resume care of the child. Alternate plans may be placement with relatives**

**or adoption. One of the steps would be exploring with the child's foster parents their interest in becoming adoptive parents to the child, should the child be unable to return home or placed with relatives. Another option would be placing the child in a home which is already dually licensed or approved as a foster and adoptive home, where the foster/adoptive parents are interested in adopting a foster child.**

### 3. E Recruiting Prospective Adoptive Families

Federal law requires that reasonable efforts be made to locate adoptive homes.

Title IV-E, Section 471.(a) (15) (C) Social Security Act. In order for a state to be eligible for payments under this part, it shall have a plan approved by the secretary which provides that: (c)...reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Title IV-B, Section 422 (9), Social Security Act. Each plan for child welfare services must provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

Local resources must be used to recruit adoptive families, as well as State and national resources.

#### 3.E.1 Local resources include:

- 3.E.1.1 Exploration of adoption with the child's current foster parents. This includes initial staffing involving individuals who know the child and foster family to assess the level of attachment and degree to which the child's needs are being met. It then involves helping the foster parents make informed decisions about whether they want to make a permanent commitment to this particular child.

- 3.E.1.2 Purchase of services from child-placing agencies which specialize in finding homes for special needs children. Agencies from which services are purchased must be **licensed or approved to provide these specific services and must be listed in the CSA Service Fee Directory**. Funding for these services should come from CSA, as they are an integral part of the permanency plan for the child. Contact the appropriate regional Foster Care/Adoption Program Specialist for assistance, if needed.
- 3.E.1.3 Use of media. Publicizing the needs of specific children through newspaper and magazine articles, and spot announcements or educational programs on radio and television have proven more effective than generalized recruitment. Confidentiality is critical and identifying information on the child must not be given for publicity purposes. The child's first name is sufficient for publicity purposes.
- 3.E.1.4 Civic Organizations. Civic organizations are a good source, not only for recruitment purposes, but also to provide volunteer help in other recruitment or public awareness efforts. Many civic groups have newsletters which can be helpful in increasing awareness of adoption services and children available.
- 3.E.1.5 Posters. Posters advertising the types of children available for adoption can be effective when placed in strategic locations.
- 3.E.1.6 Adoptive and Foster Parents. Adoptive couples can be used as a resource in sharing experiences through individual contacts, group meetings, or in public media. In many areas, adoptive and foster parents have formed groups which can be valuable in the recruitment process.
- 3.E.1.7 One Church One Child Churches. These are African-American churches that have made a commitment to recruit from within their congregations at least one

adoptive family. For information on churches in your locality, contact the AREVA Unit in Central Office.

**3.E.1.8 Regional adoptive recruitment groups. These groups are comprised of public and private adoption staff and focus on regional recruitment needs. For information, contact the AREVA Unit in central office.**

**3.E.1.9 Adoption Development, Outreach, Planning and Training (ADOPT). ADOPT is a statewide organization of public and private agency adoption workers. Members network in order to match waiting children and families. The ADOPT website is [www.adoptva.org](http://www.adoptva.org).**

3.E.2 The State resource is the Adoption Resource Exchange of Virginia (AREVA). The Virginia Administrative Code provides the following policies:

22 VAC 40-250. Adoption Resource Exchange of Virginia.

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children. (See Part 7 for AREVA details).

The services provided by AREVA shall include:

- 3.E.2.1 Maintaining a registry of children awaiting adoption and a registry of approved families waiting for adoption;
- 3.E.2.2 Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;
- 3.E.2.3 Providing information and referral services for children who have special needs to link agencies and other adoption resources;
- 3.E.2.4 Providing consultation and technical assistance to agencies in finding adoptive families for waiting children;

3.E.2.5 Monitoring agency compliance with legal requirements and State Board policy on registration of children;

The AREVA website, [www.adoptUSkids.org/states/va](http://www.adoptUSkids.org/states/va), provides a photo listing and descriptions of Virginia children waiting for adoption.

OASIS path: Workload, Case Plan, FC, Pre-Adopt, AREVA

3.E.3 National resources include:

3.E.3.1 The Adoption Exchange Association website, [www.adoptUSkids.org](http://www.adoptUSkids.org), features a national photo listing of children available for adoption, and

3.E.3.2 The National Adoption Information Clearinghouse (NAIC), [www.calib.com/naic](http://www.calib.com/naic).

3.F Selecting The Most Desirable Adoptive Home

The input of several staff members and the child's foster parents is advisable in the process of selecting the most appropriate home for a specific child. **Local agencies must adhere to the Adoptive Home Standards in approving adoptive homes, as provided in Part 9.**

Development of a group of professional resource people in the community to serve as specialized consultants can also be beneficial, especially for special-needs children. A multi-disciplinary group can provide information as to the specialized type of care, behaviors exhibited, daily routine, and on-going medical or psychiatric needs of the child and can help assess the impact of placement of a child with the particular family under consideration. Both the child's worker and the prospective parents' worker should participate in the evaluation.

Section 63.2-1225, *Code of Virginia*, provides that an agency may consider the recommendations of a clergyman, a lawyer, or doctor who is familiar with the proposed parent of child. Fees shall not be paid to persons recommending a specific placement.

3.F.1 Selection of the most appropriate family should be based on an assessment of the family's ability to parent this particular child and should include an evaluation of:

- 3.F.1.1 The similarity of the race, culture, and ethnic and religious background of the family to that of the child. This evaluation is for the purpose of determining the family's ability to parent a child of another race, culture, or ethnic and religious background and shall not be used to deny or delay a placement;
  - 3.F.1.2 Bonds the child has with relatives or current foster parents. If significant emotional ties have been established between the child and relatives or the foster parents, this family must be given first consideration;
  - 3.F.1.3 Current family composition and life style to determine whether there is "emotional room" for this particular child;
  - 3.F.1.4 Personalities, ages and needs of other children already in the adoptive home to evaluate the total impact which addition of another child may have;
  - 3.F.1.5 If appropriate, the family's ability to maintain contact with significant people in the child's life, including birth parents, birth relatives, and foster parents;
  - 3.F.1.6 The family's flexibility in terms of expectations for themselves and their children in relation to the potentials of the child to be adopted;
  - 3.F.1.7 The resources available in the family and community to meet the needs of the child.
- 3.F.2 Federal laws prohibit agencies from denying or delaying placements on the basis of race, culture, or national origin.

Title IV-E, Section 471(a) (18) of the Social Security Act provides that neither the state nor any other entity in the state that receives funds from the federal government and is involved in adoption may:

A) deny to any person the opportunity to become an adoptive parent on the basis of race, color, or national origin of the person or of the child involved; or (B) delay or deny placement of a child for adoption on the basis of race, color, or national origin of the adoptive parent or the child involved.



- 3.F.3 State laws require compliance with the Interstate Compact on the Placement of Children whenever the child is to be placed out of state. Contact the Interstate Placement Unit in the Division of Family Services as soon as the decision is made to place a child with a family who lives out of state (See Volume VII, Section III, Chapter E for details on Interstate Placements).

Article III, Chapter 10 of Title 63.2 of the *Code of Virginia* provides conditions for interstate placements. No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

- 3.F.4 Federal laws prohibit agencies from denying or delaying placements on the basis of geographical location of the adoptive family.

Title IV-E, Section 474(e) of the Social Security Act provides that a state shall not be eligible for any payments under this section if the state has (1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or (2) failed to grant an opportunity for a fair hearing to an individual whose allegation of a violation of paragraph (1) is denied by the state or not acted upon by the state with reasonable promptness.

- 3.F.5 In 1978, the U.S. Congress passed the Indian Child Welfare Act, commonly known as ICWA.

ICWA, at 25 U.S.C. Section 1902, states as its purpose: the Congress hereby declares that it is the policy of this nation to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture by providing for assistance to Indian tribes in the operation of child and family programs.

While Virginia does not have any federally recognized tribes, members of federally recognized tribes may be residents of Virginia. All children who have Native American Indian or Alaskan

Eskimo heritage may be subject to the Indian Child Welfare Act. Prior to taking any action for one of these children, the agency must contact the tribe. As of June 1999, a listing of recognized tribes and designated tribal representatives with addresses and phone numbers can be found at the Department of Interior website, [www.doi.gov/bia/desigag.html](http://www.doi.gov/bia/desigag.html), under the Bureau of Indian Affairs. The agency must contact the Tribal Council about the child. If the child belongs to a Virginia tribe, the child is not subject to the ICWA and the local court has jurisdiction.

### 3.G Preparing The Family For The Child

- 3.G.1 When a family is selected for a child, the family's worker arranges an appointment to present information about the child to the prospective parents. This needs to be done even when the child is to be adopted by the foster parents. If possible, the child's worker should also be present, as the child's worker is the one most familiar with the child.

Prior to placement, adoptive parents have the right to full, factual information that the agency has about the child and the child's birth family, except that which would reveal the identity of the child's birth family. Information provided shall include complete medical reports and summaries of psychological reports. **Copies of complete psychological reports are not to be shared without permission of the psychologist.**

Information to be shared with the family must include:

- 3.G.1.1 Description of the child's present medical and developmental condition, and any special needs including any pertinent hereditary problems or future treatment to be considered for the child. It is critical that all known information about the child including reasons for entry into care, incidences of sexual abuse, and placement history be shared with the adoptive family so that the family can consult doctors and other professionals and make an informed decision;
- 3.G.1.2 Description of the child's characteristics including personality, behavior patterns, current educational functioning, habits, preferences, and characteristic reactions

to certain situations (See the AREVA Child's Registration Form for guidelines on child's characteristics);

- 3.G.1.3 Information from medical and psychological reports on the birth family, an explanation of the birth family situation, reasons for relinquishment of the child and the child's understanding of the separation, including a description and whereabouts of significant relatives or siblings if appropriate;
- 3.G.2 When presenting information to the family, video tapes or colored snapshots of the child should be shared with the family. Video tapes are an excellent tool for presenting the family with a realistic picture of the child and should be used whenever possible, particularly for children with developmental disabilities;
- 3.G.3 Explore the family's resources and ability to meet any special needs of the child, including the need for adoption assistance.
- 3.G.4 At the conclusion of the interview, a decision should be reached about the family's readiness to see the child or about their need to think through their decision further. One of the most prevalent fears of adoptive families is that if they decide against adopting a certain child it may hurt their chances of being offered another child. Adoptive parents must be encouraged to speak honestly about the child offered and to share any concerns they may have with the worker. The concerns can then be dealt with and a joint decision reached, without fear that a negative decision will be held against them for further consideration of other children.

OASIS: Oasis provides an Affidavit of Disclosure report. This report is created from the path: Workload, Adopt, Affidavit. The report is printed from the path: Workload, Reports, Affidavit of Disclosure. Two copies should be printed. Both copies are signed by the worker, the supervisor and the adoptive parents. Both should be notarized.

### 3. H Preparing The Child For The Family

- 3.H.1 The child should be given information and pictures about the prospective family prior to the initial meeting. Even very young children seem to know when they are meeting a family that might adopt them and should be told the truth about the reasons for the visits;

3.H.2 The child should be told that the family is being evaluated by the worker as a possible family for him, rather than told that he is being evaluated by the family. The meeting place for the first visit should be one in which the child will feel comfortable;

3.H.3 If the child's worker will not be supervising the placement, it is important for the child to also meet the family's worker.

### 3. I Submitting an Adoption Progress Report to Court

**Federal laws require that reasonable efforts be made to locate an adoptive family and that these efforts be documented. State law requires that an Adoption Progress Report be submitted to the juvenile court every six months following termination of parental rights until the adoption is final.**

Section 475. (1) (E) of the Social Security Act. The case plan shall include... (E) In the case of a child with respect to whom the permanency plan is adoption, documentation of the steps the agency is taking to find an adoptive family, to place the child with an adoptive family, and to finalize the adoption. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.

Section 16.1-283. F, *Code of Virginia*. The local board or licensed child-placing agency shall file a written report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child. The court may schedule a hearing on the report with or without the request of a party. A hearing will be held on the second six month plan.

**The Adoption Progress Report (032-00-000) is the instrument that is used to document these two requirements. The Adoption Progress Report shall address the following issues:**

**3.I.1 When the child is not in an adoptive placement at the time of the progress report:**

**3.I.1.1 Statements affirming that the agency has been diligent in implementing the agency's case plan to permanently place the child, including:**

**I.1.1.1 The child was registered on the Adoption**

**Resource Exchange of Virginia (AREVA) within 60 days of termination of parental rights.**

- I.1.1.2**      **Consent has been provided for the child to be registered with the Adoption Exchange Association by the AREVA staff and featured in any media deemed appropriate to locate an adoptive family.**
- I.1.1.3**      **All families referred have been considered for this child, regardless of race, color, or national origin.**
- I.1.1.4**      **All families referred have been considered for this child, regardless of geographical location of the adoptive parents.**
- I.1.1.5**      **The agency has discussed adoptive Placement with appropriate relatives.**
- I.1.1.6**      **The agency has discussed adoption placement with the foster parents.**
- I.1.1.7**      **The agency has consulted with community organizations, such as the One Church, One Child Program, if appropriate.**
- I.1.1.8**      **The agency made prompt arrangements with specialized adoption agencies to purchase services needed to achieve the goal of adoption, if required.**
- I.1.1.9**      **The agency has discussed a cooperative adoption arrangement with the prospective adoptive family, if appropriate.**
- I.1.1.10**     **The agency has consulted with and used the resources available through the Virginia Institute for Developmental Disabilities, if appropriate.**

- I.1.1.11** The agency completed appropriate adoption subsidy arrangements, if applicable.
- I.1.1.12** The agency assisted the prospective adoptive parents with legal help to initiate the adoption proceedings.
- I.1.1.13** Efforts made during the previous six months to locate an adoptive family for the child. These efforts shall correspond to the affirmation statements checked above.
- I.1.1.14** Barriers to placing the child in an adoptive home. Include the child's special needs and all other barriers.
- I.1.1.15** The services provided to prepare the child for adoption.
- I.1.1.16** The number of adoptive home studies completed or received by the agency for consideration for this child.
- I.1.1.17** Efforts that will be made during the next six months to achieve adoption for this child.

**3.I.2 When the child is in an adoptive placement at the time of the progress report:**

- 3.I.2.1** The date the child was placed in the adoptive home.
- 3.I.2.2** The date the adoption assistance agreement was signed.
- 3.I.2.3** The status of the placement, such as the time remaining in the supervisory period, that the agency has issued consent, or that the adoption petition has been filed.
- 3.I.2.4** A statement as to whether the agency assisted the adoptive parents in legal costs associated with

**finalization of the adoption through non-recurring expenses.**

**3.I.2.5 The date of adoption finalization.**

**A copy of the Adoption Progress Report will be sent by the court to the guardian ad litem for the child. The agency is responsible for submitting a copy of the Adoption Progress Report to the appropriate Regional Program Specialist.**

OASIS: The Adoption Progress Report is in OASIS, and is printed from the path: Workload, Case Plan, Pre-Adopt, Progress Report for reports before adoptive placement. For reports after adoptive placement, it is printed from the path: Workload, Adopt, Progress Report.

## **PART 4 PLACEMENT SERVICES**

After social and medical information about a child has been shared with the adoptive family, the family decides to pursue placement of the child, and the child has been prepared for the family, visits begin.

### **4.A Visits Between The Child And The Family**

- 4.A.1 There is no standard number of visits that is required before the child moves into the adoptive home, but it is important to take visits slowly enough for everyone's comfort. The spacing, number of visits, and length of visits usually depends on the age and needs of the child and the needs of the adoptive family. A younger child may need several visits scheduled closely together over a short period of time. An older child can remember a family from one visit to the next, so visits could be spaced further apart.
- 4.A.2 Follow-up interviews are held with the child and foster parents to learn the child's initial reactions to the prospective adoptive family. Older children must be given an opportunity to talk about their impressions of the family and must be given continued support during this time. The foster parents need to be prepared for the child's reactions to a possible move and should be used to help the child move toward adoption in a positive manner.
- 4.A.3 Follow-up interviews are also held with the prospective adoptive parents to determine their reaction to the child. If the family decides against adopting the child, the worker must help the child understand why placement did not work out so that feelings of rejection are not left unresolved.

### **4.B Assistance Needed By The Family And The Child**

- 4.B.1 Both parents and child need help in this period in assessing readiness for adoption. Taking on family relationships can be very frightening to an older child and the child may need help again in accepting the loss of the birth family and foster parents.
- 4.B.2 Cooperation of foster parents is essential in helping the child to move into new relationships. Adoptive parents may need help in not feeling threatened by the foster parents, if the child needs to continue some contact with them. During the pre-placement visiting, in the process of going from the old to the new, the child very often will talk more directly



about birth parents and previous foster homes, and resort to some earlier behaviors including enuresis, thumb sucking, etc.

- 4.B.3 A meeting between the adoptive parents and the foster parents during the placement process should be arranged if it would be helpful to the child, providing the two sets of parents can be accepting of each other. A meeting will provide an opportunity for the adoptive parents to talk with the foster parents and to see the child's present situation.

#### 4.C Placement Procedures

- 4.C.1 When the child's worker feels that the child is ready to move and the adoptive parents are ready for placement, arrangements are made for the move. If this is not a local placement, it is important to keep the agency who will supervise informed of developments in the situation.

If it is to be an interstate placement, approval for placement must be secured through the Interstate Compact Unit in the Division of Family Services. Arrangements should be made with the supervising agency to provide post-placement services before a placement agreement is signed.

OASIS: An adoptive family case record is created when a child is placed into an approved adoptive resource with a signed adoptive home agreement. Children should be entered under their adoptive name.

- 4.C.2 The following forms must be completed at the time of placement:

- 4.C.2.1 The Placement Agreement - Adoptive Home (021-02-023/1). This form must be signed on the date the adoptive placement begins. Even if the child was living in the home on a foster care basis, this agreement must be signed to show that the placement has changed to an adoptive placement. The foster care placement date may still be considered the date of placement in the home for purposes of meeting legal timeframes (See Part 5 for visitation requirements).
- 4.C.2.2 The Adoption Assistance Agreement (032-02-062/3) - if the family is to receive subsidy. This form should be signed and approved at the time of placement, but must be signed and approved before entry of the final order of adoption. An

Adoption Assistance Agreement is also needed if the family is requesting reimbursement for non-recurring expenses such as agency fees, visitation prior to placement, court costs or attorney fees directly related to finalizing the adoption.

#### 4.C.3 Consolidate Records

If the agency is maintaining hard copies of records, the adoptive parents' record must be made a part of the child's record. If the agency wants to keep a record on the adoptive parents, copies of pertinent documents may be made for inclusion in the child's record.

#### 4.C.4 Cross Reference The Records Of Siblings

Each child's record must indicate where the home study and other material, pertinent to all siblings, have been filed. This material includes documents and data on the birth parents and relatives. All materials must be sent to the Adoption Reports Unit in the Foster Care, Adoption, and Family Preservation Unit for microfilming after the adoption has been finalized.

#### 4.C.5 Affidavit of Disclosure

Upon placement, the agency should have the adoptive family sign a statement that information has been shared with them. The statement should specify the type of information shared including information about the family's right to appeal. A copy of the statement should be maintained in the child's record.

OASIS: Oasis provides an Affidavit of Disclosure report. This report is created from path: Workload, ADOPT, Affidavit. The report is printed from path: Workload, Reports, Affidavit of Disclosure. Two copies should be printed. Both copies are signed by the worker, the supervisor and the adoptive parents. Both should be notarized.

## **PART 5 POST-PLACEMENT SERVICES**

Services provided after the child has been placed in the adoptive home are post-placement services. These include:

### **5.A Providing adoption assistance payments**

Subsidy payments may begin as soon as the child is placed in the adoptive home, the adoptive home placement agreement has been signed, and the adoption assistance agreement has been signed.

OASIS: The funding source must be updated in OASIS. In the foster care case, the path is: Workload, Client, Finances, Funding. In the adoption case, the path is: Workload, Adopt, Subsidy.

### **5.B Minimum finalization requirements. The *Code of Virginia* sets forth specific minimum requirements for finalization of adoption. These minimum requirements are:**

5.B.1 Section 63.2-1210. The child must live in the adoptive home continuously for a period of at least six months before the petition for adoption is filed.

5.B.2 Section 63.2-1212, A. A minimum of three visits must be made. These three visits must be made within a six month period and there must be at least 90 days between the first and last visits.

5.B.3 Section 63.2-1212, B. The three supervisory visits...shall be conducted in the presence of the child. At least one such visit shall be conducted in the home of the petitioners in the presence of the child and both petitioners, unless the petition was filed by a single parent or one of the petitioners is no longer residing in the home.

5.B.4 If the child is being adopted by foster parents, the length of time the child has resided in the home can be counted from the date of the foster care placement. Any visits made during the foster care placement may also be counted if they meet the above requirements. The petition for adoption may be filed any time after the visitation requirements have been met.

5.B.5 Children who have special needs require more frequent visitation in order to meet the needs of the child and family.

OASIS: Supervisory visits are record in OASIS. The path is: Workload, Adopt, Visits.

- 5.C Sending reports of supervisory visits to the placing agency. This applies only if the placement is being supervised by an agency other than the placing agency. Reports should be sent to the placing agency as soon as possible after each visit. If the child is placed out-of-state, reports are sent to the Interstate Placement Unit for forwarding to the other state. When supervisory visits indicate there is a problem:

5.C.1 The placing agency must be advised promptly;

5.C.2 The child cannot be removed from the adoptive home without the consent of the adoptive parents unless the following occurs:

Section 63.2-1207, *Code of Virginia*, provides that the child cannot be removed from the adoptive home without the consent of the adoptive parents unless:

- |         |  |
|---------|--|
| 5.C.2.1 | the juvenile or circuit court orders the child's removal or                            |
| 5.C.2.2 | the child is being mistreated, neglected or subjected to unwholesome influences.       |
| 5.C.2.3 | The adoptive parents have the right to petition the court for a review of the removal. |

If the adoptive parents consent to the removal of the child, the agency should get the consent in writing to prevent future law suits.

- 5.D Foster care services continued after adoptive placement. Foster care services to be continued include:

5.D.1 Medicaid. The Medicaid card should remain in effect until entry of the final order of adoption if the child is being adopted without adoption assistance. Although the adoptive parents are normally financially responsible for the child after placement, situations may arise where the child's medical expenses are extraordinary and Medicaid can be used to assist with these expenses.

5.D.2 Since the child is technically in foster care until the entry of the final order of adoption, the child continues to be eligible for CSA funding for foster care services, if they are required.

**5.D.3 Yearly foster care review hearings alternating with administrative panel reviews or court reviews, every six months until entry of the final order of adoption.**

**5.D.4 If the child is receiving SSI, the SSI payment should be used during the adoptive placement instead of an adoption assistance payment. Efforts should be made to expend SSI funds accumulated in a special welfare account on behalf of the child before finalization. Any unexpended SSI funds should be returned to the Social Security Administration (SSA).**

**5.D.5. If the child is receiving other types of payments, such as SSA, a change in payee must be initiated by the worker.**

5.D.6 Other services as needed on a case by case basis.

5.E Finalizing the Adoption.

The finalization process begins when it is mutually decided the adoptive parents are ready to file their petition to adopt the child. The process then involves getting legal representation, signing the consent, filing the petition and submitting a report to court. This process is described below:

5.E.1 When To File

The decision to file must be made jointly by the agency and adoptive parents. The visitation requirements must have been met.

5.E.2 Legal Representation

Explain to the adoptive parents that adoption is a legal process and the services of an attorney may be needed. Some circuit courts do not require representation by an attorney and the adoptive parents may want to explore this option. CSA funds may be used to help the adoptive parents who are adopting without subsidy with attorney fees and court costs, if the adoptive parents cannot afford to pay for these expenses. For children being adopted with adoption assistance, payments for non-recurring expenses can be for legal expenses directly related to finalization of the adoption.

Section 473, (B) of the Social Security Act, states that the state shall make payments of nonrecurring adoption expenses incurred by or on behalf of adoptive parents in connection with the adoption of a special needs child.

### 5.E.3 Consent (Form 032-02-127/1)

#### 5.E.3.1 Signing Consent

The agency superintendent/director or the Board Chairman signs the consent. Provide the attorney representing the adoptive parents with a copy of the consent. If the adoptive parents do not have an attorney, the consent must be sent directly to the court where the petition is to be filed.

Section 63.2-1202, A, *Code of Virginia*, states that no petition for adoption shall be granted....unless written consent to the proposed adoption is filed with the petition.

Section 63.2-1202, C, 3, *Code of Virginia*, specifies that consent must be filed by the...local board of social services having custody of the child, with the right to place him for adoption, through court commitment.....

### 5.E.4 Counseling of Birth Parents

A statement affirming that the birth parent(s) received counseling concerning the decision to place the child for adoption should be sent to the attorney representing the adoptive parents along with the agency's consent. If the adoptive parents do not have an attorney, this statement must be sent to the court along with the agency's consent.

Section 63.2-1224, *Code of Virginia*, requires that prior to placement of a child for adoption, the ...local board having custody of the child shall counsel the birth mother or, if reasonably available, both birth parents, concerning the disposition of their child.

### 5.F Petition

The agency is not responsible for filing the petition, but the agency should know the procedures for filing. These procedures are:

### 5.F.1 Who May File

A petition may be filed by a single person or a married couple.

Section 63.2-1201, *Code of Virginia*, states that in the case of married persons, the petition shall be the joint petition of the husband and wife....

### 5.F.2 Where To File

#### 5.F.2.1 If the adoptive parents reside in Virginia:

Section 63.2-1201, *Code of Virginia*, states that the petition may be filed in the circuit court where they reside or in the court having jurisdiction where the child-placing agency is located.

#### 5.F.2.2 If the adoptive parents reside outside Virginia:

Section 63.2-1201, *Code of Virginia*, allows the petition to be filed in the court where the child-placing agency is located or in the state where the adoptive parents live.

If the adoptive parents decide to file the petition outside of Virginia, the laws and procedures of the other State apply. The placing agency must provide copies of any documents or reports which may be required by the other state to finalize the adoption.

### 5.F.3 What To Include

The law is very clear about how the petition is to be prepared:

Section 63.2-1201, *Code of Virginia*, specifies the petition must contain a full disclosure of the circumstances surrounding how the child came to live and is living in the home of the petitioner.

Section 63.2-1227, *Code of Virginia*, specifies the petition must be filed in the name by which the child will be known after adoption, provided the name is followed by the birth registration number and the state or county in which the registration occurred. Two or more children, who have the same birth parent(s) may be included in the same petition.

### 5.G Acknowledgment

The agency must acknowledge copies of any court papers received.

Section 63.2-1228, *Code of Virginia*, states that the court shall forward copies of the petition, exhibits and order of reference to the Commissioner and to the agency which placed the child.

Exhibits are any documents filed with the petition such as the consent and the agency's statement that the birth parents have received counseling.

The order of reference is the document that orders the agency to investigate the petitioner(s) home and submit a report of the investigation. It is signed by the Judge and the date he signs it is considered the petition filing date.

A copy of the Commissioner's Confidential Report (032-02-222/2) will be sent to the placing agency. This form is returned to the Adoption Unit with a copy of the Report of Investigation. An explanation of the Report of Investigation is provided below.

#### 5.H Initial Report Of Investigation

The agency must prepare and submit a Report of Investigation to the court

##### 5.H.1 What To Include:

The law is very clear about what must be included in a Report of Investigation:

Section 63.2-1208, <i>Code of Virginia</i> , states that the investigation shall include:	
5. H.1.1	whether the petitioner is financially able, morally suitable, and a proper person to care for and train the child, whether the child is receiving adoption assistance;
5.H.1.2	the physical and mental condition of the child;
5.H.1.3	why the parents desired to be relieved of the responsibility for the custody, care and maintenance of the child, and/or what their attitude was toward the plan of adoption at the time their parental rights were relinquished or terminated;
5.H.1.4	whether the parents abandoned the child or were morally unfit to have custody over him;
5.H.1.5	the circumstances under which the child came to live and is living in the home of the petitioner. Include statements certifying that



	the child has lived in the home of the petitioners continuously for at least six months prior to the filing of the petition and has been visited at least three times within the six month period with no less than 90 days between the first and last visits;
5.H.1.6	whether the child is a suitable child for adoption by the petitioner;
5.H.1.7	what fees, if any, have been paid by the petitioners or on their behalf to persons or agencies which have assisted them in obtaining the child.
5.H.1.8	the physical and mental health of the petitioners; and
5.H.1.9	the physical and mental health of the birth family.

Refer to the Checklist for Report of Investigation at the end of Part 5.

#### 5.H.2. When To Submit The Report of Investigation

The agency has ninety (90) days after receipt of the court documents.

Section 63.2-1208, *Code of Virginia*, requires the agency to make a thorough investigation of the matter and report thereon in writing...to the court within 90 days after the copy of the petition and all exhibits... are forwarded.

#### 5.H.3 Distribution of the Report of Investigation

The agency must prepare four (4) copies of the Report of Investigation. These copies are sent as follows:

- 5.H.3.1 The original is sent to court with a Certificate of Service (032-02-107/2);
- 5.H.3.2 One copy is sent to the attorney; and
- 5.H.3.3 One copy of the report is sent to the Adoption Unit, along with:
  - H.3.3.1 a completed Commissioner's Confidential Report;

H.3.3.2 copies of Permanent Entrustment Agreements for Permanent Surrender of Child (032-02-226/2) and/or commitment orders; and

H.3.3.3 a copy of Certificate of Service (032-02-107/2).

Section 63.2-1208, *Code of Virginia*, states that a copy of the report to the court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the court. On the report there shall be appended either acceptance of service or certificate of the local director of social services...that copies were served....

Do not send a copy to the adoptive parents. If they do not have an attorney, advise them to contact the clerk of court to have their case placed on the docket for disposition.

OASIS: OASIS provides a screen for recording and printing information on the court report. The path is: Workload, Adopt, Court Rpt.

## 5.I Obtaining The New Birth Certificate

Once a final order of adoption is entered, the Office of Vital Records will seal the child's original birth certificate and establish a new birth certificate for the child.

- 5.1.1 The placing agency is responsible for completing the VS-21, Report of Adoption. This form can be obtained from the Clerk of Court or the Office of Vital Records. Send it to the court at the same time the Report of Investigation is sent.
- 5.1.2 When the original name, date and place of birth, **name of birth parent(s)**, and file number of the child's original birth certificate are entered in Part 1 of the VS-21, information concerning birth parents, hospital, and attendant need not be entered. All other items must be completed on the report.
- 5.1.3 If the child was born outside of the State of Virginia, but within the United States, Office of Vital Records will forward the VS-21 to the appropriate State Registrar. The petitioners' attorney should contact that State Registrar about the procedures for issuing a new certificate.
- 5.1.4 BVS shall establish a Virginia birth certificate for a person born in a foreign country and for whom a final order of adoption has been entered in a Virginia court, when the following is received:

- 5.1.4.1 a completed VS-21 and a completed VS-6, Application for a Certified Copy of a Birth Record form;
- 5.1.4.2 a check for the required fee; and
- 5.1.4.3 a request that such certificate be established in Virginia. BVS will send a copy of the VS-21 to the appropriate federal agency.

Section 32.1-262, A, *Code of Virginia*, states that for each adoption decreed by a court in this Commonwealth, the court shall require the preparation of a report of adoption on a form furnished by the state registrar. The report shall (i) include such facts as are necessary to locate and identify the original certificate of birth of the person adopted or, in the case of a person who was born in a foreign country, evidence from sources determined to be reliable by the court as to the date, place of birth and parentage of such person; (ii) provide information necessary to establish a new certificate of birth of the person adopted; and (iii) identify the order of adoption and be certified by the clerk of court

Section 32.1-262, B, *Code of Virginia*, states that...in all cases where a child is placed for adoption by a child-placing agency, the report shall be completed and filed with the court by a representative of the agency. A final order of adoption shall not be entered until the information required by this section has been furnished unless the court, for good cause shown, finds the information to be unavailable or unnecessary.

## 5.J Changing the Social Security Number

**When a child is adopted, the SSA will assign another social security number (SSN) to the child in the child's new identity if requested by the adoptive parents. SSA will not assign a child a new number if the child is receiving Social Security benefits or SSI payments, or if the child has worked. In these instances, SSA updates the child's record to show the new identifying information and issues a corrected card with the child's name but original SSN. To apply for a new SSN for an adopted child, the adoptive parent must complete an Application for a Social Security Card.**

Further guidance on obtaining new numbers and Application for a Social Security Card, is available at the SSA website, [www.ssa.gov/online/ss-5.html](http://www.ssa.gov/online/ss-5.html). The application can also be obtained by calling 1-800-722-1213 or visiting a local SSA office.

**Checklist for Report of Investigation**

1. Verification of child's name, and date and place of birth with birth registration number
2. Petitioner(s):
  - Race
  - Age
  - Verification of marriage
  - Verification of termination of marriage(s)
  - Children
  - Education
  - Employment
  - Physical and mental health
  - Religion
  - References
  - Finances
    - Income
    - Savings and investments
    - Debts
    - Property value
  - Home
    - Size
    - Location
    - Standards
    - Occupants
  - Personalities
  - Marital relationship
3. Child:
  - Birth history
  - Development and placement experiences
  - Health
  - Personality
  - School grade
  - Family relationships

**Checklist for Report of Investigation  
(continued)**

## 4. Birth parents:

- Verification of mother's marital status at time of child's conception and birth
- Verification of a parent's death
- Separation from and planning for child, opportunity for counseling
- Age and race
- Education
- Employment
- Physical and mental history, including current health
- Physical description
- Personality
- Relationship between parents
- Family relationships

## 5. Consent:

- Proper identification of child and petitioner
- Date of consent
- Date, place and method of custody received
- Date of placement

## 6. Placement:

- Circumstances surrounding the child's placement
- Date of placement
- Fees paid regarding placement

**PART 6  
POST-ADOPTION SERVICES**

Post adoption services are services that are provided to adopted children and their adoptive families after the entry of the final order of adoption. Post adoption services include:

- 6.A Providing notice to adoptive parents of the need for submission of the annual subsidy affidavit.

The agency is responsible for sending a letter to the adoptive parent(s) informing them that the affidavit is due and requesting that it be provided by the deadline. The agency must send the letter to the adoptive parent(s) two months before the affidavit is due (See Part 8).

Title IV-E, Section 473 (a) (4), of the Social Security Act, requires that...parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program informed of circumstances which would...make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

OASIS: To track the affidavit notice and other documents, the path is: Workload, Other, Doc. Trkg.

- 6.B Preserving Information From Foster Care And Adoption Records

State law gives the Commissioner of the Department of Social Services the responsibility for preserving adoption records.

Section 63.2-1246, *Code of Virginia*, states that upon entry of a final order of adoption or other disposition of the matter, the clerk of the court in which it was entered shall forthwith transmit to the Commissioner all reports made in connection with the case, and the Commissioner shall preserve such reports and all other collateral reports, information, and recommendations in a separate file.

The court will send a copy of the final order of adoption to the agency and to the Adoption unit. The agency must acknowledge receipt of the order. When the agency receives a copy of the final order of adoption, the agency is to send information to be preserved to the Adoption Unit within 30 days.

Section 63.2-1246, *Code of Virginia*, requires upon entry of a final order of adoption or other final disposition of a matter involving the placement of a child by a licensed child-placing agency or a local board of public welfare or social services or an investigation by the local director or superintendent of a placement for adoption of a child, the agency or local board shall transmit to the Commissioner all reports and collateral information in connection with the case.

The material to be preserved is to include data and documents pertaining to the child, the birth parents and relatives, and the adoptive parents. This material is taken from the birth parent's record and the child's protective services, foster care, and adoption records.

6.B.1 Material sent to the Adoption Unit:

6.B.1.1 Materials should be placed in folders and labeled with the Virginia Adoption Case Number. All names by which the child may have been known should be shown on the front of the folder. These names include:

- B.1.1.1 The child's original name.
- B.1.1.2 The child's adoptive name.
- B.1.1.3 Agency code names for the child.
- B.1.1.4 Any other names by which the child has been known.

6.B.1.2 Materials must be originals and should include:

- B.1.2.1 All medical and psychological reports on the child and birth family.
- B.1.2.2 All verifications of births, deaths, divorces, and marriages.
- B.1.2.3 Original letters of reference
- B.1.2.4 Copies of letters to legal/birth parents and the envelopes, if returned by the post office.
- B.1.2.5 Original letters from legal/birth parents.

- B.1.2.6 Background summaries and reports to Juvenile and Domestic Relations Courts.
  - B.1.2.7 All legal documents concerning the child's custody.
  - B.1.2.8 Foster care face and placement sheet.
  - B.1.2.9 Adoptive home placement agreement.
  - B.1.2.10 Summary of CPS initial safety assessment and risk assessment.**
  - B.1.2.11 Case narrative material from foster care and adoption records.
  - B.1.2.12 Copy of the statement of information shared with adoptive family, including information on the family's right to appeal.
- 6.B.1.3 Records must be purged of all duplicate and non-pertinent material and staples removed before it is sent to the Adoption Unit. Before purging the non-pertinent material, review carefully the material that must be maintained in the child's subsidy record (See Part 8) and the material that must be kept for Title IV-E reviews. If purging is not done, the record will be returned to the agency for the removal and destruction of all duplicate material. Materials to be purged include:
- B.1.3.1 Miscellaneous correspondence, letters, acknowledgments and requests for status of reports.
  - B.1.3.2 Duplicates and extra copies of material. These could be copies of material which the agency knows the Bureau already has such as the Report of Investigation, the adoption petition; the Certificate of Service, and the Order of Reference.



B.1.3.3 Case narrative that does not contain specific factual information relative to the child's background.

B.1.3.4 Baby pictures, baby hospital bracelets, greeting cards and other personal mementos. These should be given to adoptive parents after identifying information has been deleted.

B.1.3.5 Service application forms.

6.B.1.4 If the child's adoption was finalized outside the State of Virginia, the placing agency must observe the requirements of the other state regarding case material and documents to be sent for preservation.

#### 6.B.2 Material Retained In The Agency

6.B.2.1 In an agency placement, the placing agency must keep copies of the following material for federal IV-E foster care and IV-E adoption assistance reviews:

B.2.1.1 All court orders, service plans, panel reviews, documents pertaining to AFDC-FC eligibility and dispositional plans must be maintained on children who are adopted. This material is to be retained for five years after the child's 18<sup>th</sup> birthday.

B.2.1.2 If the child was adopted with a subsidy of any kind, keep all forms, reports and documents concerning the child's special needs, the adoptive family's circumstances, and eligibility for IV-E adoption assistance. This material must be kept in a separate file for five years after the child's 18<sup>th</sup> birthday.

6.B.2.2 If the child's adoption was finalized in another state, the material identified in 6.B.2.1 above must be maintained by the placing agency.

- 6.B.2.3 In an agency placement, the placing agency may keep copies of any material sent to the Adoption Unit for preservation.

## 6.C Releasing Information From Closed Adoption Records

Access to information in closed adoption records is governed by Virginia law. There are different types of information in a closed adoption record and access to the different types of information is limited to specific individuals.

### 6.C.1 Non-identifying Information

Non-identifying information is generally defined as that information which does not identify the birth family, however, there is additional case material (trace information) that may need to be edited from the record. For specific guidelines, refer to the guide material entitled "Preparation of Non-identifying Case Material." This guide material is available from the Adoption Unit.

In the event that the adult adoptee also wants any information on the adoptive parents (like the home study or report of investigation), the adult adoptee needs a notarized consent from either adoptive parent on whom the information is requested or a death certificate for that person.

#### Who May Have Access to Non-Identifying Information

- 6.C.1.1 Access to non-identifying information in the sealed record.

The adoptee after turning 18, the adoptive parents any time after entry of the final order, and child-placing agencies providing services to the child may have access to non-identifying information from the closed adoption record.

Section 63.2-1246, <i>Code of Virginia</i> , states that ....non-identifying information from...adoption files shall not be open to inspection, or be copied, by anyone other than the adopted person, if eighteen years of age or over, or licensed or authorized child placing agencies providing services to the child or the adoptive parents.
--

- 6.C.1.2 The exchange of non-identifying information and pictures between the birth and adoptive parents.

Written permission must be obtained from the adult adoptee/adoptive parent(s) if the information is to be sent to any agency other than the one initially involved in the adoption, a doctor, psychiatrist, or psychologist. A release of this sort is not required if the information is being sent to the agency that placed the child.

Section 63.2-1247, D, *Code of Virginia*, states that in cases where at least one of the adoptive parents and one of the birth parents agree in writing to allow the agency involved in the adoption to exchange non-identifying information and pictures, the agency may exchange this information with such adoptive parents and birth parents when the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the adult adoptee.

- C.1.2.1 If the agency that was involved in the adoption is willing, the agency may act as an intermediary for the purpose of exchanging pictures and non-identifying information such as letters.
- C.1.2.2 This action occurs only if the addresses of the parties are known or easily obtainable. The agency is not required to conduct a search, as it would for the exchange of identifying information.
- C.1.2.3 The role of the Adoption Unit in this exchange of pictures and non-identifying information is to send the agency any information needed from the sealed record to help locate the appropriate parties.

## 6.C.2 Critical Medical Information

In some cases, critical medical information can be shared between the birth and adoptive families.

Section 63.2-1247, C, *Code of Virginia*, states that in any case where a physician or licensed mental health provider submits a written statement in response to a request from the adult adoptee, adoptive parent, birth parent or adult biological siblings, indicating that it is critical that medical, psychological or genetic information be conveyed, and states clearly the reasons why this is necessary, the agency...shall make an attempt to inform the adult adoptee, adoptive parents, birth parents, or adult biological siblings...of the information.

- 6.C.2.1 A physician or licensed mental health provider must submit a written statement, in response to a request from one of the individuals specified above indicating that it is critical that medical, psychological or genetic information be conveyed, and that states clearly the reasons why this is necessary.
- 6.C.2.2 The letter from the physician or mental health provider must indicate that he/she is acting at the request of the adult adoptee, adoptive parent, birth parent, or adult birth sibling unless this has been clarified in writing by whomever is making the request.
- 6.C.2.3 Confidentiality of all parties shall be maintained by the agency which means that identifying information cannot be shared.
- 6.C.2.4 The placing agency is responsible for attempting to find the parties and passing the information along. The agency should verify that:
- C.2.4.1 the letter clearly states that the physician is acting at the request of one of the specified individuals, and
- C.2.4.2 the letter clearly indicates that it is critical that the information be conveyed and states clearly the reasons why this is necessary.
- 6.C.2.5 The role of the Adoption Unit in this exchange of critical information is to send the agency any information needed from the sealed record to help locate the appropriate parties.

### 6.C.3 Identifying Information

Identifying information is information that identifies the adoptee or birth family. It includes "trace" information that may lead to the identity of the birth family.

### Who May Have Access To Identifying Information

- 6.C.3.1 Virginia law allows adoptees who are 18 or older to make an application for disclosure to the Commissioner.

Section 63.2-1246, *Code of Virginia*, states that no identifying information from ...adoption files shall be disclosed, open to inspection or made available to be copied except ....upon application of the adopted person, if eighteen years of age or over, to the Commissioner...

- 6.C.3.2 Birth parents and adult birth siblings may apply for disclosure if the adoption was finalized on or after July 1, 1994 and the adopted person is at least twenty-one years of age.

Section 63.2-1247, A, *Code of Virginia*, states that in cases where the adoption is finalized on or after July 1, 1994 and the adopted person is twenty-one years of age or over, the adopted person's birth parents and adult † birth siblings may apply to the Commissioner for the disclosure of identifying information from the adoption file.

- 6.C.3.3 Adoptive parents may apply for disclosure if the adoption was finalized on or after July 1, 1994 regardless of the age of the adoptee.

Section 63.2-1247, B, *Code of Virginia*, states that in cases where the adoption is finalized on or after July 1, 1994, and the adopted person is under eighteen years of age, the adoptive parents or other legal custodian of the child may apply to the Commissioner for the disclosure of identifying information about the biological family.

### 6.C.4 Procedures for Disclosure

The Commissioner, through the Adoption Unit, has responsibility for deciding whether information from closed adoption records is released. Local departments of social services and licensed child-placing agencies provide assistance to the Commissioner by conducting searches to locate birth family members and, if requested by the Commissioner, to share information from the closed record.

To initiate a search for birth family members, adult adoptees must complete an Adoptee Application for Disclosure form, have the form notarized and return it to the central office Adoption Unit. The form is accessible for downloading at [www.dss.state.va.us](http://www.dss.state.va.us).

- 6.C.4.1 Upon receipt of the Application for Disclosure from the adult adoptee, the Adoption Unit sends a Letter of Appointment to the agency that will be conducting the search. If necessary, a hard copy of the identifying information and a sample format for the Report of Inquiry will be sent with the Letter of Appointment.
- 6.C.4.2 Upon receiving a Letter of Appointment, the designated agency conducting the search shall:
- C.4.2.1 Attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.
  - C.4.2.2 Conduct the search within 8 months. If the agency needs additional time, the agency shall request the additional time from the Adoption Unit. This request may be made verbally.
  - C.4.2.3 In situations where there is very little information in the record upon which to begin a search, the agency may ask the Adoption Unit for assistance in obtaining a copy of the child's original birth certificate and hospital records of the child's birth.
- 6.C.4.3 The agency shall send a Report of Inquiry to the Adoption Unit describing the results of the attempt to locate and advise the birth family member(s) of the Application for Disclosure.
- C.4.3.1 The agency's report shall be in the format prescribed by the Commissioner and shall not include identifying information on the birth family.
  - C.4.3.2 No identifying information is to be disclosed to the adoptee without proper authorization from the Commissioner.

- C.4.3.3 Resources used to locate the birth family member(s) should be fully documented in the agency's Report of Inquiry in those cases where agency efforts were unsuccessful.
- C.4.3.4 If the birth family member(s) about whom the adoptee wants identifying information can be located, the agency's Report of Inquiry shall include updated non-identifying information about that birth parent. The Report should also indicate that parent's wishes regarding having his/her identify disclosed and being contacted by the adoptee.
- C.4.3.5 The agency's Report of Inquiry shall include a recommendation regarding disclosure based on the findings.
- C.4.3.6 If there is a fee, the agency's report shall include a statement indicating the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.

- 6.C.4.4 The Commissioner makes the final decision about the release of identifying information and the Adoption Unit will send the agency a Letter of Final Disposition. If the Letter of Final Disposition indicates that the Application for Disclosure is granted, the agency shall share the identifying information with the adoptee.

#### 6.C.5 Opening A Case For Releasing Information

When a request for adoption information is made or the agency receives a Letter of Appointment from the Commissioner to locate a birth family, adoptees or adoptive parents, a case may be opened and reported as foster care and adoption services.

## 6.D Charging a Fee

Virginia law allows fees to be charged for adoption searches.

Section 63.2-1248, *Code of Virginia*, states ...the agency which attempts to locate the birth family...shall assess a fee against the applicant...in accordance with regulations and fee schedules established by the State Board....

Section 63.2-1248, *Code of Virginia*, states...The fee charged shall not exceed the actual costs of the service. The fee shall be paid to the appropriate department of social services...prior to the...release of identifying information....

Fees are to be determined based on income and family size; and indirect costs to the agency or average costs. The fee schedule established by the State Board is on the following page.



## FEE SCHEDULE FOR ADOPTION SEARCHES

The formula is as follows:

1. The agency's fiscal manager must calculate an indirect cost factor that covers expenses other than the direct worker's salary and benefits (such as overhead expenses).
2. Local agencies will record the time the worker spends providing the service. The time spent is to be multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits) and the indirect costs.

Example:

20 hours (time to provide service)

\$16 (worker's hourly salary and benefits)

Indirect cost factor of 50%

Combined worker's hourly salary and benefits plus indirect costs=  
 $\$16 + (\$16 \times 50\% = \$8) = \$24$

$20 \text{ hours} \times \$24 = \$480$  (To be adjusted for family size and income.)

3. Determine applicant's family size. Include all persons for whom the applicant and his/her spouse are responsible.
4. Determine the applicant's gross monthly income. Include all income available to the family. Accept the applicant's declaration of income.
5. Determine the applicant's percent of median income using the median income scale issued annually in a broadcast. If income falls between two percentages, use the lower figure.
6. Reduce or waive the fee if it finds circumstances that affect the applicant's ability to pay, such as heavy debt, unusual medical or educational expenses, or heavy financial support of relatives.
7. The agency shall report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds

shall be adjusted to reflect the state and federal share of income collected.  
Using the percentage of fee scale shown below, determine the fee assessed.

<u>Percentage of Median Income</u>	<u>Calculated Fee To Be Charged</u>
50% and below	0% (No charge)
60%	10%
70%	25%
80%	50%
90%	75%
100%	100%

Example:

The baseline cost of the fee is \$480. Using the median income scale, the fee is adjusted for family size and income. The worker determines that the applicant's annual income falls between 80% and 90% of the median. The worker uses the lower figure of 80%. Using the scale shown above, the worker determines that the applicant should be assessed 50% of \$480 or \$240.

#### Determination of Direct Costs

In determining direct costs, the local department of social services providing the service has the option of using the actual salary and benefits of the worker performing the service, an average of the salary and benefits, or the minimum salary and benefits.

1. If the actual salary and benefits of the worker performing the service is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging the customer.
2. If some form of averaging is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed.

The method of averaging, which appears to conform with the intent of the statute which talks about the actual cost of the service, would be to average the actual salaries and benefits of the workers performing the services.

Example:

If an agency had a social worker I earning \$15 an hour in salary and benefits, a social worker II also earning \$15 an hour, a social worker III earning \$16 an hour, and a social work supervisor (who also had a normal caseload) earning \$18 an hour, the agency would calculate an average of \$16 an hour.

3. If minimum salary and benefits is chosen, the first step of the compensation schedule for a social worker for the agency is used. The only recalculating would occur when the agency changes/updates the compensation schedule. This method is very simple and will insure that the salary charged will not exceed the actual salary and benefits of the worker performing the service.
4. The agency may use 20 hours as an average, multiply this by the agency hourly costs, factor in family size and income, and charge the applicant that amount in advance.

If the search is completed in less than 20 hours, the agency would return the unexpended funds.

If the search is not completed in 20 hours, the agency can ask the applicant if they should continue the search at the worker's hourly cost (written permission from the applicant is mandatory) or the agency can continue the search but not charge the applicant more than the initial estimated fee which is based on 20 hours of work (this is an option because policy allows an agency to recommend waiving all or part of the fee in unusual circumstances).

**PART 7**  
**ADOPTION RESOURCE EXCHANGE OF VIRGINIA (AREVA)**

OASIS: All AREVA information must be entered into OASIS. The path is: Workload, Case Plan, FC, Pre-Adopt, AREVA for a foster care child. For adoptive families, the path is: Resource, Directory, Homes, AREVA.

The Virginia Administrative Code 22 VAC 40-250 establishes the regulations for AREVA:

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children.

7.A Services provided by AREVA include:

- 7.A.1 Maintaining a registry of approved families waiting for adoption and a registry of children awaiting adoption.
- 7.A.2 Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;
- 7.A.3 Providing information and referral services for children who have special needs to link agencies with other adoption resources;
- 7.A.4 Providing on-going recruitment for waiting children;
- 7.A.5 Providing consultation and technical assistance to agencies in finding adoptive families for waiting children; and
- 7.A.6 Monitoring agency compliance with legal requirements for adoption and state board policy on registering children and families; and
- 7.A.7 Featuring children on Virginia's adoption website, [www.adoptUSkids.org/states/va](http://www.adoptUSkids.org/states/va), the Adoption Exchange Association website, [www.adoptUSkids.org](http://www.adoptUSkids.org), as well as other adoption web sites.

## 7.B Registration requirements

There is a difference between registration with AREVA and featuring in the photo-listing. Procedures for registering children with AREVA are described below:

### 7.B.1 Registration of Children

7.B.1.1 All children must be registered with AREVA within 60 days of termination of parental rights (60 days is counted from the date the order is signed by the judge) if:

B.1.1.1 the goal is adoption;

B.1.1.2 the child is legally free for adoption (the child is not legally free until the final appeal has been heard);

B.1.1.3 the agency has the authority to place for adoption; and

B.1.1.4 adoptive placement has not occurred.

7.B.1.2 The court commitment or permanent entrustment agreements shall be submitted by the agency with the child's registration forms.

### 7.B.2 Registration of Families

7.B.2.1 Approved families must be registered within 60 days after the date of approval if they are expressing interest in adopting children who are:

B.2.1.1 six years of age and over;

B.2.1.2 members of sibling groups;

B.2.1.3 physically, mentally, or emotionally disabled; or

B.2.1.4 black, biracial, or members of other minority races.

## 7.C Registration procedures

### 7.C.1 There are three categories of children registered with AREVA:

#### 7.C.1.1 Children with special needs who will be featured in the photo-listing:

##### C.1.1.1 **Complete the AREVA Child's Registration Screen in OASIS.**

C.1.1.2 Mail to the AREVA Unit copies of court commitments and/or permanent entrustment agreements, **and a 5 x 7 color picture (a black and white glossy will be accepted, if necessary).** If the picture is other than a professional photograph, it should be a clear and age appropriate representation of the child. A clear shot of the child's face is vital, and where possible, siblings should be photographed together. Avoid identifying clothing and background information. Paper printouts from a digital camera and photocopied reproductions should be avoided, due to difficulty in scanning those media. **If it is necessary to have the picture returned, please contact the AREVA Unit prior to mailing.** The local agency shall pay for yearly school pictures for children in foster care and it is preferable that this school picture be submitted.

##### C.1.1.3 **A current picture and updated information need to be submitted annually.**

#### 7.C.1.2 Children on Deferment from the Photo-Listing Service:

##### C.1.2.1 **Complete the AREVA Child's Registration screens in OASIS, including the section on the reason for deferment.**

##### C.1.2.2 **Mail to AREVA copies of court**

**commitments and/or permanent  
entrustment agreements and color picture.**

- 7.C.1.3 Healthy normal children under eight years of age or minority children under the age of three for whom the worker requests referral of home studies:

**C.1.3.1 Complete the AREVA Child's Registration screens in OASIS.**

**C.1.3.2 Mail to AREVA copies of court commitments and/or permanent entrustment agreements and color picture.**

- 7.C.1.4 Agencies that are not part of the OASIS system can receive printed forms for completion by calling the AREVA Unit at 1-800-DO-ADOPT.

OASIS: Complete the AREVA Child's Registration Screen in OASIS. The path in the foster care case is: Workload, Case Plan, FC, Pre-Adopt, AREVA, Registration.

7.C.2 There are three categories of families registered with AREVA:

- 7.C.2.1 Those interested in children with special needs who will be featured in the photo-listing:

**C.2.1.1 Complete the AREVA Family's Registration screen in OASIS.**

**C.2.1.2 Mail to AREVA a 5 x 7 color picture of the family, including children (a black and white glossy will be accepted if necessary). If the picture is other than a professional photograph, it should be a clear representation of the family. Paper printouts from a digital camera and photocopied reproductions should be avoided, due to difficulty in scanning these materials. If it is necessary to have the picture returned, please contact the AREVA**

**Unit prior to mailing. Include copy of the narrative home study for referral purposes.**

**C.2.1.3 Include with the picture a printed copy of the last page of the registration form with original signatures of the family.**

**7.C.2.2 Families for Whom A Deferment Is Being Requested:**

**C.2.2.1 Complete the family information tab on the AREVA Family's Registration Screen in OASIS. Include explanation of why deferment is being requested under "Family Narrative."**

**C.2.2.2 Submit to AREVA the last page of the registration form with the original signatures of the family.**

**7.C.2.3 Those requesting healthy white children under the age of eight or minority children under the age of three who will not be featured in the photo-listing:**

**C.2.3.1 Complete the AREVA Family's Registration screen in OASIS;**

**C.2.3.2 Mail to AREVA a recent picture of the family including children and a copy of the narrative home study for referral purposes. Include a printed copy of the last page (Recruitment tab) with original signatures of the family.**

**7.C.2.4 Agencies that are not part of the OASIS system can receive printed forms for completion by calling the AREVA Unit at 1-800-DO-ADOPT.**

**7.C.3 AREVA staff will acknowledge receipt of all registration forms by entering the registration received date in OASIS. Agencies that are not part of the OASIS system can receive acknowledgement from AREVA staff by including an e-mail address under their signatures on the AREVA registration form.**



OASIS: Complete the AREVA Family Registration Screen in OASIS. The path is: Resource, Directory, Homes, AREVA, Registration.

## 7.D Photo-listing (listing service) Procedures

### 7.D.1 AREVA operates a photo-listing of registered children and families.

- 7.D.1.1 Each agency is provided with listing service binders for children and families.
- 7.D.1.2 Periodic updates of the photo-listing are distributed.
- 7.D.1.3 Agency workers are responsible for the maintenance of their binders.
- 7.D.1.4 Inquiries about a child or a family may be made by telephone, letter, e-mail, or by on-line inquiry at [www.dss.state.va.us/family/adoptform.html](http://www.dss.state.va.us/family/adoptform.html).

### 7.D.2 Local agencies may request a 60 day deferment from the photo-listing for children and families when:

- 7.D.2.1 a family has been identified, including foster parents, and placement is pending, or
- 7.D.2.2 a child has been identified, including a foster child, and the placement is pending.
- 7.D.2.3 If a deferment is requested, the AREVA registration form must be submitted to AREVA. If the registration is for a child, include a copy of the court commitment and/or permanent entrustment and color picture.

### 7.D.3 An additional 30 day deferment may be granted once at the discretion of AREVA staff.

- 7.D.3.1 The child or family shall be featured in the photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed or conditions in 7.D.4 have been met.

**7.D.4 Upon the request of the local supervisor, additional deferment time may be granted at the discretion of the AREVA Unit. Additional time may be granted only under extenuating circumstances that are beyond the agency's control. An example would be a case involving an interstate placement where completion of the adoptive home study has been delayed in the other state. When requesting extended time, the agency must specify the reason for the extension and provide a time period for the needed extension. This request should be made on the change-of-status form (032-02-027) and must be signed by the supervisor. Requests will be considered by the AREVA Unit on a case-by-case basis.**

7.D.4 Deferments relate only to the photo-listing service. Children and families for who deferments are being requested must be registered with AREVA.

OASIS: Complete the AREVA Deferment screen in OASIS. The path in the foster care case is Case Plan, FC, Pre-Adopt, AREVA, Registration.

7.D.5 AREVA staff shall make the determination about which children and families to feature in the photo-listing. The decision will be based on the needs of waiting children and on the types of families waiting for placement.

## 7.E Agency responsibilities

### 7.E.1 Definitions

7.E.1.1 The agency registering the child is the placing agency.

7.E.1.2 The agency registering the family is the supervising agency.

### 7.E.2 Pre-placement Responsibilities

7.E.2.1 The placing agency is responsible for preparing the child for adoption (See Part 3);

7.E.2.2 The placing agency is responsible for local recruitment of prospective adoptive families;

7.E.2.3 When two agencies are involved, the placing agency

and the supervising agency must share information to determine whether a specific family might be suitable for a specific child.

The most important criterion in determining suitability shall be the ability of the adoptive parent(s) to parent a child not born to them.

The placing agency shall give equal consideration to all approved families, regardless of marital status, income level, education, age, health, race, or residence of the family.

Title IV-E, Section 471 (a) (18) of the Social Security Act provides that neither the state nor any other entity in the state that receives funds from the federal government and is involved in adoption may (A) deny to any person the opportunity to become an adoptive parent on the basis of race, color, or national origin of the person or of the child involved; or (B) delay or deny placement of a child for adoption on the basis of race, color, or national origin of the adoptive parent or the child involved.

Title IV-E, Section 474 (a) (23), of the Social Security Act provides that a state shall not be eligible for any payments under this section if the state has (A) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or (2) failed to grant an opportunity for a fair hearing to an individual whose allegation of a violation of (A) is denied by the state or not acted upon by the state with reasonable promptness.

7.E.2.4 The placing agency must provide feedback to AREVA on families considered to be inappropriately approved and/or on home study narratives that are inadequately prepared. This can be done through a telephone call or in writing.

7.E.2.5 After the agencies have agreed to explore further the possibility of placement, the supervising agency shares with the family pertinent information on the child.

Full factual information that the agency has on the child and the child's birth family, except that which would reveal the identity of the child's birth family, shall be shared with the adoptive family. The information provided shall include

complete summaries of medical and psychological reports.  
**Information on the child and child's birth family should be shared in writing with the adoptive family.**

OASIS: OASIS provides an Affidavit of Disclosure report. This report is created at path: Workload, Adopt, Affidavit. The report is printed from path: Workload, Reports, Affidavit of Disclosure. Two copies should be printed. Both copies are signed by the worker, the supervisor and the adoptive parents. Both copies should be notarized.

7.E.2.6 The agency shall explore with the family selected for the child the family's ability to fully or partially meet financial costs related to any special needs the child may have. If it is determined that the child has special needs and the child has been determined eligible for subsidy, the agency shall inform the adoptive parent(s) of the child's eligibility for subsidy.

7.E.2.7 The agency shall obtain the consent of the Commissioner of the Department of Social Services prior to placing a child out of state (refer to Volume VII, Section III, Chapter E, Interstate Compact on the Placement of Children).

Chapter 11, Article III, (a), *Code of Virginia*, provides conditions for placement (a) no sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

7.E.2.8 Decisions regarding pre-placement visits, placement procedures, and transportation arrangements shall be made after consultation between all parties concerned including:

E.2.8.1 personnel of both agencies;

E.2.8.2 the adopting parents;

E.2.8.3 the child to be adopted, if old enough to

participate in planning; and

- E.2.8.4 the present foster parents caring for the child, if able to be helpful.

### 7.E.3 Post-placement Responsibilities

- 7.E.3.1 The placing agency retains legal custody of the child until entry of the final order of adoption and has the following responsibilities during placement:

- E.3.1.1 Provide or arrange for supervision and visitation until legal adoption.
- E.3.1.2 See that legal procedures are started at the appropriate time.
- E.3.1.3 Consent to the adoption (form 032-02-127/1, Consent to Adoption).
- E.3.1.4 Certify to the Circuit Court with respect to placement and visitation.
- E.3.1.5 Furnish reports as requested by court, with copies to the Adoption Unit in Central Office.
- E.3.1.6 Arrange for supervision by another agency if the adoptive family moves to another locality within the state.
- E.3.1.7 Initiate interstate placement procedures if the adoptive family moves out-of-state.

- 7.E.3.2 The supervising agency has the following responsibilities:

- E.3.2.1 Visit within a maximum of two weeks, or earlier depending on the needs of the family and child, after placement of the child.
- E.3.2.2 Make as many visits as seem warranted by the circumstances of the placement. The agency must make a minimum of three supervisory

visits in a six-month period with the first and last being at least 90 days apart.

- E.3.2.3 Inform the placing agency of any problems.
- E.3.2.4 Send the placing agency a copy of the report on each of the supervisory visits as soon as recorded by the worker.
- E.3.2.5 Consult the placing agency staff before initiating any steps to legalize the adoption.
- E.3.2.6 Send the placing agency its record of the case upon notification that the final order of adoption has been granted.

#### 7.E.4 Notification to AREVA of Change of Status

- 7.E.4.1 Use the change-of-status form (032-02-027) to provide updated information on the child or the family;
- 7.E.4.2 Use the change-of-status form (032-02-027) to close a case in AREVA, specifying the reason for withdrawal.

OASIS: Complete the AREVA Change of Status form. The path is: Workload, Case Plan, FC, Pre-Adopt, AREVA, Status Chg. , or Resource, Directory, Homes, AREVA, Status Chg.

#### 7.F. Resource utilization

When indicated, AREVA staff shall consult with the agency regarding the need to explore additional resources.

- 7.F.1 AREVA staff may recommend referral of a child to a specialized adoption agency.
- 7.F.2 AREVA staff shall routinely register a child with the national adoption exchange after registration with AREVA unless a placement is pending.
- 7.F.3 AREVA will be responsible for on-going recruitment of prospective adoptive families, using resources such as:

7.F.3.1 Television, radio, and print media

7.F.3.2 Virginia One Church, One Child program.

7.F.4 AREVA will automatically feature children on the state's adoption website, [www.adoptUSkids.org/states.va](http://www.adoptUSkids.org/states.va). AREVA staff shall make the determination about which children to feature. The decision will be based on the needs of waiting children.

7.F.5 AREVA staff will monitor OASIS to identify children overdue for registration.

**PART 8  
SUBSIDY**

OASIS: All subsidy information must be entered into OASIS. The path is: Workload, Adopt, Subsidy.

Subsidized adoption, also called adoption assistance, is a means of providing a money payment and/or services to adoptive parent(s) on behalf of a child with special needs. The purpose of subsidy is to facilitate the adoption of children who are considered hard to place because they have special needs and few families are available. Without subsidy, these children are likely to remain in long-term foster care.

The child is the client and eligibility for subsidy is based on the needs of the child, not on the financial circumstances of the adoptive family. An adoption assistance agreement shall be executed by the agency or child placing agency for all children who have been determined to have special needs.

Adoption assistance should be a partnership between the agency and the adoptive parents. The adoptive parents are responsible for the routine costs of raising a child and the agency helps the adoptive parents in meeting the child's special needs. Adoption assistance payments should relate directly to the special needs of the child.

Most children must be determined eligible for subsidy before legal adoption. For some children, eligibility can be established after the adoption (see 8.J).

There are 9 steps in the subsidy process:

**8.A. Step one - Determining The Child's Eligibility for Subsidy before Legal Adoption**

**8.A.1 Basic Eligibility**

The child must be:

- 8.A.1.1 under 18 years of age;
- 8.A.1.2 in the custody of a local board of public welfare/social services or a licensed, private child placing agency at the time the petition for adoption is filed; and
- 8.A.1.3 placed by the agency with the prospective adoptive family for the purpose of adoption.



**A.1.3.1** There are exceptions to basic subsidy eligibility criterion 8.A.1.2 and 8.A.1.3, requiring the child to be in agency custody and placed by the agency with the prospective adoptive family.

(i) The first exception is when a foster parent with whom the child has resided for 18 months files a petition for adoption under Section 63.2-1229 of the *Code of Virginia*. With this exception, the child must still meet the definition of special needs.

(ii) The second exception is when the child is eligible for SSI at the time the adoption petition is filed.

In (i) and (ii) above, adoption assistance payments are initiated upon final order of adoption and are retroactive to the date the petition was filed. An Adoptive Home Placement Agreement is not required.

**A.1.3.2** A copy of the Adoptive Home Placement Agreement signed by the agency and prospective adoptive parent(s) is evidence that custody is with a local board of public welfare/social services or licensed private agency at the time the petition is filed and that the child was placed by the agency with the prospective adoptive family.

Section 63.2-1229, <i>Code of Virginia</i> . When a foster parent who has a child placed in the foster parents' home...desires to adopt the child and (i) the child has resided in the home of such foster parent continuously for at least eighteen months and (ii) the birth parents' rights to the child have been terminated, the court shall accept the petition filed by the foster parent and shall order a thorough investigation of the matter....
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### 8.A.2 Special Needs

The child must be a child with special needs. A special needs child is one who:

- 8.A.2.1 is legally free for adoption through the termination of all parental rights;

Title IV-E, Section 473 (c) (1) of the Social Security Act states that a child shall not be considered a child with special needs unless the State has determined that the child cannot or should not be returned to the home of his parents; and.....

Section 63.2-1300, *Code of Virginia*. A "child with special needs" shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto....or (ii) in the custody of a licensed child-placing agency.....

- 8.A.2.2 has at least one of the following individual characteristics that make the child hard to place:

- A.2.2.1 a physical, mental, or emotional disability existing before legal adoption;
- A.2.2.2 a hereditary, congenital problem or birth injury that could lead to a future disability;
- A.2.2.3 being six years of age or older;
- A.2.2.4 being a member of a minority or mixed racial heritage;
- A.2.2.5 being a member of a sibling group that is ready for placement at the same time and that should not be separated; or
- A.2.2.6 having significant emotional ties with the foster parents with whom the child has resided for at least 12 months, when the adoption is in the best interest of the child and when the subsidy

is necessary to consummate the adoption by these foster parents.

Use the above criteria only when one of the other individual characteristics do not apply.

**A child whose only individual characteristic is emotional ties must be provided with a state subsidy agreement, rather than a IV-E subsidy agreement, even if child is IV-E eligible.**

Title IV-E, Section 473 (c) (2) of the Social Security Act. A child shall not be considered a child with special needs unless... the state has first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.....

Section 63.2-1300, *Code of Virginia*. "Child with special needs" shall mean any child....for whom it has been determined that it is unlikely that the child will be adopted within a reasonable period of time due to one or more factors including, but not limited to:

1. Physical, mental or emotional condition existing prior to adoption;
2. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability; or
3. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings....

8.A.2.3 has had reasonable efforts made to first place the child with appropriate adoptive parents without providing subsidy. A reasonable effort has been made when:

A.2.3.1 local recruitment efforts have been undertaken and documented; or

A.2.3.2 requirements for registration with AREVA have been met and the child has been featured in the AREVA photo-listing for a period of 30 days or other special recruitment efforts have been

undertaken by AREVA and an appropriate family has not been identified.

- 8.A.2.4 Reasonable effort shall be made except when it would be against the best interest of the child because of such factors as the existence of significant emotional ties with the foster parents;

A child who meets the conditions in 8.A is a child with special needs. An adoption assistance agreement must be approved on behalf of the child. The prospective adoptive family must be informed of the child's eligibility and of the types of payments and services for which the child is eligible.

In cases where there is a choice between a family that can accept the child without subsidy and a family that needs subsidy, the guiding principle shall be the best interest of the child. The family best able to meet the needs of the child shall be the family of choice.

Title IV-E, Section 473 (c) (2), of the Social Security Act. A child shall not be considered a child with special needs unless.....(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance....

Section 63.2-1301, *Code of Virginia*. Such subsidy payments shall be made, however, only after a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without the provision of adoption assistance...except in cases where the child has developed significant emotional ties with the prospective adoptive parents while in the care of such parents as a foster child.

## 8.B Step two - Determining The Type Of Agreement For Which The Child Is Eligible

After a child has been determined eligible for subsidy, the next step is to determine the type of subsidy for which the child will be eligible. There are three types of subsidy agreements: a IV-E subsidy, a state subsidy, and a conditional state subsidy.

## 8.B.1 A IV-E Subsidy

IV-E subsidies are used for children whose foster care expenses are paid from federal and state funds. These include children who are in IV-E (AFDC-FC) foster care and children who are eligible for Supplemental Security Income benefits (SSI). A IV-E subsidy agreement shall be executed for any child who is a special needs child and meets eligibility requirements for AFDC or SSI. **When a child is eligible for SSI and meets the special needs criteria set forth in 8.A.2, the child is eligible for IV-E subsidy regardless of child's foster care funding category. Foster care requirements related to reasonable efforts to prevent removal and court order language indicating that the removal was in the best interests of the child do not apply.**

8.B.1.1 To be eligible for a IV-E subsidy, the child must meet AFDC eligibility requirements as in effect in July 1996 at the time of entry into care. The child must also meet AFDC-FC or SSI eligibility requirements at the time the petition for adoption is filed. **Eligibility for AFDC-FC must be documented in the case record at the time of entry into foster care and when the petition is filed. Eligibility for SSI must be documented in the case record at the time the petition for adoption is filed.**

8.B.1.2 Medicaid must be provided for children receiving a IV-E subsidy for as long as the child has an adoption assistance agreement in effect.

Title IV-E, Section 473 (a), (5), of the Social Security Act. For purposes of title XIX, any child with respect to whom adoption assistance payments are made under this section... shall be deemed to be a recipient of aid to families with dependent children under part A of this title.
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8.B.1.3 **A child may continue to receive SSI payments after adoption if the income of the adoptive family meets the level required for SSI. However, when the family's income is sufficiently low to meet requirements for continuing SSI payments, SSI will deduct the amount of the adoption assistance maintenance payment dollar for dollar from the SSI payment. The agency, in consultation with the adoptive family, should determine**

**which payment source (adoption assistance or SSI) will provide the highest benefit for the child and family.**

8.B.1.4 If a IV-E child is placed in or moves to another state, the child is eligible for Medicaid in the new state of residence (See 8.K.).

8.B.1.5 Payment and services may begin as soon as the adoptive home placement agreement and adoption assistance agreement are signed, and the child is placed in the adoptive home. **However, if the adoption is not finalized within 12 months of placement in the adoptive home, the agency must suspend adoption assistance payments and provide foster care payments until finalization of the adoption, with no gaps in payment to the family. Exceptions may apply in some situations. A request for a waiver to continue the subsidy payment must be submitted in writing to the appropriate Regional Program Specialist.**

B.1.5.1 **When payments and services begin before entry of the final order of adoption**, the child's continuing eligibility for IV-E must be established at the time the petition for adoption is filed. When the AFDC-FC case is closed, the service worker determines continuing eligibility by looking at the child's income and resources:

(i) If the child's income and resources have not changed, the child continues to be eligible. The service worker documents in writing that the child's income and resources have not changed since the last eligibility re-determination.

(ii) If the child's income and resources have changed, the service worker must consult with the eligibility worker to determine whether the change results in ineligibility for IV-E. If the change does not make the child ineligible, document this in writing.

(iii) Before finalization of the adoption, the documentation is maintained in the child's foster care record. After finalization the documentation is maintained in the child's subsidy record.

Title IV-E, Section 473 (a) (45) of the Social Security Act. ...individuals with whom a child (who has been determined by the state...to be a child with special needs) is placed for adoption...shall be eligible for adoption assistance payments ...during the period of the placement on the same terms ...as if such individuals had adopted such child.

8.B.1.6 When an adoptive family indicates that they do not want a payment or services, including Medicaid, a IV-E subsidy agreement must still be entered into with the family. In this case, the agreement serves as a mechanism that will allow the family to receive payments and services if the need arises at a later date. **The agreement must indicate that the child is eligible for medical services under Title XIX. An annual affidavit is required.**

**The case must be entered into OASIS and the annual affidavit is required. If the family declines to sign an agreement, they must sign a statement that the benefits of Title IV-E adoption assistance have been fully explained to them.**

45 CFR 1356.40 (b) requires that the adoption assistance agreement be entered into prior to the entry of a final order of adoption.

8.B.1.7 The source of funding for IV-E maintenance payments is Title IV-E of the Social Security Act.

8.B.1.8 The agency will be reimbursed 100% of all maintenance and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

### 8.B.2 State Subsidies

State subsidies are used for children whose foster care expenses are paid from CSA pool funds.

Medicaid may be continued after adoption for some children receiving a state subsidy.

8.B.2.1 In order for Medicaid to be continued, the following conditions must be met:

- B.2.1.1 The child must have a special medical or rehabilitative need.
- B.2.1.2 There must be an adoption assistance agreement in effect.
- B.2.1.3 The adoption assistance agreement must identify the special medical need.
- B.2.1.4 The child must have been eligible for Medicaid prior to the adoption assistance agreement being entered into.
- B.2.1.5 The child's own income and resources cannot exceed the AFDC or Medicaid income limit for a single person.
- B.2.16 There must be documentation in the subsidy record of the child's special medical or rehabilitative need. The documentation must be from a qualified professional such as a physician, psychiatrist, psychologist, or licensed therapist.



- 8.B.2.2 Medical and rehabilitative needs for which Medicaid can be continued after adoption include, but are not limited to:
- B.2.2.1 Diagnosed physical, mental, and emotional disabilities.
  - B.2.2.2 Diagnosed congenital problems and birth injuries.
  - B.2.2.3 Diagnosed medical conditions that do not require immediate treatment, such as sickle-cell anemia.
  - B.2.2.4 Medical or emotional conditions requiring regular medication, such as epilepsy, allergies, attention deficit disorders.
  - B.2.2.5 Severe visual and dental problems requiring non-routine medical treatment.
- 8.B.2.3 **Children for whom services are requested after final order of adoption are not eligible for Medicaid through adoption assistance unless a conditional adoption assistance agreement was signed before final order of adoption.**
- 8.B.2.4 Payment and services may begin as soon as the adoption assistance agreement and adoptive home placement agreement are signed, and the child is placed in the adoptive home.
- 8.B.2.5 The source of funding for a state subsidy is state funds.
- 8.B.2.6 The agency will be reimbursed 100% of all maintenance, special services including those made for IV-E children, and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

### 8.B.3 Conditional Subsidies

A conditional subsidy agreement is used when payments and services are not needed at the time of placement, but may be needed later.

22 VAC 40-260 of the Virginia Administrative Code provides that a conditional subsidy shall be provided for any child with special needs, whose foster care expenses are paid from state and local funds, when the adoptive parents indicate that payment and/or services are not needed at the time of placement but may be needed later.

- 8.B.3.1 A conditional subsidy is granted at the request of the adoptive parents when a child:
  - B.3.1.1 has a physical, mental or emotional disability present at the time of placement;
  - B.3.1.2 has a hereditary tendency, congenital problem or birth injury;
  - B.3.1.3 could develop emotional or other problems resulting from separation from birth parents, placement in foster care or adoption; or
  - B.3.1.4 may need help later with daily living expenses such as food, clothing and shelter.
- 8.B.3.2 **In addition to the factors listed in 8.B.3.1., a conditional subsidy is also granted at the request of the adoptive parents when the child has perinatal drug exposure and when the birth parents' medical history is unknown.**
- 8.B.3.3 A conditional subsidy does not involve money payments or services. It is an agreement that allows the adoptive parent(s) to apply for a state subsidy after the final order.
- 8.B.3.4 A conditional subsidy commits the agency to providing a state subsidy when the adoptive parent(s) apply, if it is determined that the need is related to one of the conditions described in A above.
- 8.B.3.5 A conditional subsidy does not require an annual affidavit.

- 8.B.3.6 Conditional subsidies are not used for children who are eligible for IV-E subsidy. For IV-E children, an adoption assistance agreement must be entered into to show the child's continuing eligibility for Medicaid. If a family indicates they do not want these services, it is their option as to whether they use the services. However, the agreement must be signed. This serves as a conditional agreement for IV-E children.

#### **8.B.4 International adoptions**

**Children who are adopted abroad by U.S. citizens or who are brought into the U.S from another country for the purpose of adoption are not eligible for adoption assistance.**

#### **8.C. Step three - Determining The Type Of Payment To Be Made**

Adoption assistance payments must be negotiated with the adoptive family, taking into consideration the needs of the child and the circumstances of the family. In considering the family's circumstances, income shall not be the sole factor. Expenses, the need to save money for college educations of children already in the family, the number of dependents, and other circumstances of the family must also be considered. Family and community resources must also be explored to help defray the costs of adoption assistance. Adoption Assistance payment are not intended to cover 100% of the cost of raising a child but are to supplement costs related to the special needs of the child to encourage permanent placements for children.

Title IV-E, Section 473(a)(3), of the Social Security Act. The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the state...which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted...

The primary source of payment is always the family's private health insurance, if available.

Section 38.2-3411.2A, Code of Virginia...each insurer that offers coverage for a family member of the insured...shall...also provide that the accident and sickness insurance benefits applicable for children shall be payable with respect to adopted children ...  
C. An adopted child shall be eligible for the coverage...from the date of adoptive ...placement....

E. No insurer...shall restrict coverage for any dependent child adopted or placed for adoption solely because of a preexisting condition of such child ...

The Employer Retirement Income Security Act of 1974 (29 U.S.C. 1169 (c))...Additional Standards for Group Health Plans Section 609. (c) (1) Coverage effective upon placement for adoption. In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, such plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply in the case of dependent children who are natural children of participants...irrespective of whether the adoption has become final. (2) Restrictions Based on Preexisting Conditions at the Time of Placement for Adoption Prohibited. A group health plan may not restrict coverage...of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption solely on the basis of a preexisting condition of such a child at the time that such child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant...is eligible for coverage under the plan.

Adoptive families need to ensure that the health care coverage they have is a family policy. If the policy does not provide family coverage, the above laws do not require a third party insurance provider to cover the child.

There are three types of payments which may be made on behalf of a child who is eligible for subsidy; maintenance, special service, and one time only payments for non-recurring expenses. One or more types may be used for the same child. The amount of payments made and services provided shall not exceed what would be paid or provided had the child remained in foster care.

Title IV-E, Section 473(a)(3)...in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Retroactive maintenance and special service payments may be made only back to the date of the Application for Adoption Assistance.

A description of the types of payments follows:

#### 8.C.1 Maintenance Payments

A maintenance payment is used to help with the child's daily living expenses.

- 8.C.1.1 A maintenance payment shall be provided for all children who are eligible for subsidy, unless the adoptive parent(s) indicate that a payment is not wanted **or it is determined through negotiation that a maintenance payment is not needed.**
- 8.C.1.2 **Maintenance payments are intended to cover the costs of food, clothing, shelter, daily supervision, school supplies and a child's personal essentials.**
- 8.C.1.3 Maintenance payments shall not be reduced lower than the amount specified in the initial subsidy agreement, unless requested by the adoptive parents.
- 8.C.1.4 The Virginia Administrative Code 22 VAC 40-260 provides that increases in the amount of payment shall be made when:
- C.1.4.1 a child who is receiving the maximum allowable payment:
- (i) reaches a higher age grouping as specified in foster care policy for maintenance payments; and
- (ii) statewide increases are approved for regular foster care payments.
- C.1.4.2 The agency must notify the adoptive parents in writing of all increases in maintenance payments.
- 8.C.1.5 Payments shall be made directly to the adoptive parent(s) on a monthly basis.

Section 63.2-1302, *Code of Virginia*. A. Subsidy payments shall include:

1. A maintenance subsidy which shall be payable monthly to provide for the support and care of the child; however, the maintenance subsidy shall not exceed the maximum regular foster care payment that would otherwise be made for the child...

Section 63.2-1302, B, *Code of Virginia*. Maintenance subsidy payments made pursuant to this section shall not be reduced unless the circumstances of the child or adoptive parents have changed significantly in relation to the terms of the subsidy agreement.

### 8.C.2 Special Service Payments

A special service payment is used to help in meeting the child's physical, mental, emotional, or dental needs. In most cases, the payment shall be related directly to the child's special need(s). There may be times, however, when the financial circumstances of the adoptive family are such that a special service payment will be needed for routine expenses of child-rearing such as day care. These situations should be the exception rather than the rule and must be decided on an individual case basis.

**The special service payment should be used only when it is determined that the adoptive family's private insurance and Medicaid do not cover the expense.**

8.C.2.1 Special service payments are used to provide services that would have been provided had the child remained in foster care.

22 VAC 40-260 of the Virginia Administrative Code states that expenses that may be paid include, but are not limited to:

- C.2.1.1 medical, surgical, or dental care;
- C.2.1.2 equipment such as prosthetics, braces, crutches, hearing aids, eyeglasses, etc;
- C.2.1.3 individual tutoring or remedial educational sessions, books or equipment;
- C.2.1.4 psychological and psychiatric evaluations and treatment;
- C.2.1.5 speech, physical, and occupational therapy; and
- C.2.1.6 premiums for a major medical insurance policy for a child, if the child is not covered by a family policy;

**C.2.1.7** Specialized care payments for care provided directly to the child by the adoptive parents. These are services provided by the parent to meet the special needs of the child. These payments are distinct from basic maintenance and supervision. The parents shall be qualified by experience or specific training to perform such services. This item may be paid in addition to a maintenance payment.

An example is payment to an adoptive parent for providing physical therapy to a child with cerebral palsy. Another example is when the child's behavior is so extreme the adoptive parents must have special training or above normal supervision is required.

**Adoptive parents who are trained as therapeutic foster parents will not receive additional payment for providing therapeutic services unless such services are needed based on a diagnosis from a physician, therapist or other qualified professional, and are being provided for the child. When a child is placed with adoptive parents who are trained therapeutic foster parents and the child does not need the therapeutic services of the adoptive parents, the adoptive parents will receive the basic maintenance rate.**

**Specialized care payments to adoptive parents will not include payment for case management services. However, case management can be purchased with a special service payment.**

**8.C.2.2** Special service payments may also be used for respite care when the child's condition requires extreme difficulty of care and other resources are not available. Special service payments may also be used for summer camps that are treatment oriented.

**8.C.2.3** Specialized care payments may be used for children eligible for Title IV-E Adoption Assistance to supplement expenses not covered by Medicaid or when Medicaid does not provide adequate coverage. Although Medicaid must be extended for children receiving a IV-E subsidy, there may be times when Medicaid does

not cover all needed services. When at all possible, Medicaid should be used for IV-E children instead of special service payments. When special service payments are made for IV-E children, the source of funding is state funds.

8.C.2.4 Special service payments may be made directly to the providers of service or through the adoptive parents. Providers must submit a bill before they can be paid. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the service was rendered.

8.C.2.5 If a provider is to be paid directly by the agency, the provider must be approved according to requirements for purchase of service specified by the department of social services. If the provider is not listed on the Service Fee Directory, a contract must be drawn up. The rate of payment shall not exceed the prevailing community rate.

8.C.2.6 Special service payments may be used to pay for residential treatment.

**C.2.6.1 Payments for residential treatment may be made only when the plan for placement has been reviewed and recommended by the FAPT (Family Assessment and Planning Team) in the locality where the child and family reside. Documentation that less restrictive alternatives have been assessed and ruled out must be maintained in the subsidy record.**

(i) The agency in the family's residence locality is responsible for presenting the case to their FAPT.

(ii) The locality where the family resides is responsible for providing case management services for as long as the case is before the FAPT.

(iii) Once the FAPT team has made their recommendation about the need for residential treatment services and



determined that there are no alternative community resources, the case does not have to be brought back before the FAPT team for additional reviews or decision-making.

- C.2.6.2**      **Payments for residential treatment shall be made only when the plan for the child is to return to the adoptive home. Exceptions apply only when the child's condition prohibits return to the adoptive home and the adoptive parents demonstrate their continued involvement in the life of the child.**
- C.2.6.3**      **The adoptive parents must show their continued commitment to the child by participating in service planning, supporting the child emotionally, and visiting, when appropriate.**
- C.2.6.4**      **Payments for residential treatment may not be made for longer than 12 months, unless a review of the child's situation by the adoption assistance agency demonstrates the need for additional treatment. When payments are made for longer than 12 months, the adoption assistance agency shall review the case every six months thereafter to assess the continuing need for treatment.**
- C.2.6.5**      **When the placement is a non-educational placement and the child does not require special education, the adoption assistance agency is responsible for the costs of placement.**
- C.2.6.6**      **When the placement is a non-educational placement and the child is eligible for special education, CSA funds are used to pay the portion of costs related to special education. The CSA responsible for payment is the one in the locality where the child and family have legal residence. Maintenance and other service costs will be the responsibility of the agency which entered into the adoption assistance agreement with the family.**

- C.2.6.7** If the placement is a result of an Individualized Education Program (IEP), all costs will come from the state pool allocation of the Community Policy and Management Team where the child and family have legal residence.
- C.2.6.8** The adoptive parent(s) have the final authority over whether to place the child in a residential facility. If FAPT has not recommended residential treatment, the adoptive parent(s) is responsible for the total costs of the placement.
- C.2.6.9** In determining the amount, negotiations are conducted with the adoptive parent(s) in the same manner as any other special service payment.

**8.C.2.7** Medicaid may be used for residential treatment

Medicaid may cover residential treatment for children receiving adoption subsidy who are enrolled in Medicaid, when the child meets Medicaid medical necessity criteria and is in a Medicaid-enrolled facility. All Medicaid pre-authorization requirements must be met, which include an independent team certification of medical necessity. For non-CSA children, including children who are receiving adoption subsidy, the Community Services Board in the adoptive family's residence locality provides the independent team certification. In cases where the adoptive family does not reside in locality providing the subsidy, the adoptive family's residence locality and adoption assistance locality should work together with the adoptive parents to obtain the pre-admission screening and ensure that all required background information is available to meet Medicaid requirements.

**8.C.2.8** Continuing subsidy when child is in residential

Adoption assistance agreements cannot be terminated prior to a child's 18<sup>th</sup> birthday without the consent of the adoptive parents unless the adoptive parents no longer provide financial support for the child, no longer have

**legal responsibility for the child (parental rights terminated), or the condition for which the child receives subsidy no longer exists. When a special service payment is being used to pay for a child's residential treatment, and it is determined that the adoptive parents continue to financially provide for the child, the adoptive parents may continue to receive a portion of the monthly maintenance subsidy. In these cases, the agency would continue to provide all but the room and board portion of the maintenance payment to the adoptive parents.**

Section 63.2-1302, *Code of Virginia*. Subsidy payments shall include... a special need subsidy to provide special services to the child which the adoptive parents cannot afford and which are not covered by insurance or otherwise, including, but not limited to:

- a. Medical, surgical and dental care;
- b. Hospitalization;
- c. Legal services in effecting adoption;
- d. Individual remedial educational services;
- e. Psychological and psychiatric treatment;
- f. Speech and physical therapy;
- g. Special services, equipment, treatment and training for physical and mental handicaps; and
- h. Cost of adoptive home study and placement by a child-placing agency other than the local board.

### 8.C.3 One-time Only Payments For Non-Recurring Expenses

Adoptive parents shall be reimbursed, upon request, for the non-recurring expenses of adopting a special needs child.

#### 8.C.3.1 Non-recurring expenses shall include:

- C.3.1.1 Reasonable and necessary fees of adoption agencies. **Workers should share with family what is reasonable and customary relative to fees for their community, and clarify that payment for attorney fees may not be covered in full, if the amount exceeds what is reasonable and customary for their community.**

- C.3.1.2 Transportation and other expenses incurred by adoptive parents related to placement of the child. Expenses may be paid for more than one visit.
- C.3.1.3 Court costs related to filing an adoption petition.
- C.3.1.4 Attorney fees directly related to the legal process of finalizing the adoption.
- 8.C.3.2 The total amount of reimbursement for non-recurring expenses is based on actual costs and shall not exceed \$2,000 per child per placement.
- 8.C.3.3 An adoption assistance agreement **and adoptive home placement agreement** must be signed and **the adoption assistance agreement** shall specify the services to be provided under this section.
- 8.C.3.4 Payment of non-recurring expenses may begin as soon as the adoption assistance agreement has been signed and the child is placed in the adoptive home. Payment may be made directly to providers of service or to the adoptive parents for expenses they have incurred.
- 8.C.3.5 A bill or receipt shall be submitted before payment can be made. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the expense was incurred.
- 8.C.3.6 All non-recurring costs are taken out of IV-E adoption assistance, even for children with state adoption assistance agreements.

Title IV-E, Section 473 (a)(1)(B)(i) of the Social Security Act.... the State shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child...
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#### 8.C.4 Tax Credits

Adoptive parents are, in some cases, eligible for tax credits for qualifying expenses incurred to adopt a child. Adoptive parents should consult with the Internal Revenue Service ([www.IRS.gov](http://www.IRS.gov)) and professional tax preparers for more information.

#### 8.C.5 Tuition Grant

The Virginia Tuition Grant Program provides tuition and fees at any Virginia community college specifically for high school graduates or general education development (GED) completers who were in foster care, in the custody of a social services agency, or considered a special needs adoption at the time of graduation or GED completion. Further information on this program is available at the Department of Social Services website, [www.dss.state.va.us](http://www.dss.state.va.us), or from the community colleges. The community college website is [www.vccs.cc.va.us](http://www.vccs.cc.va.us).

### 8.D. Step Four - Processing the Application for Subsidy

If adoptive parent(s) are requesting subsidy on behalf of a child, they must submit an application. These procedures are outlined below.

#### 8.D.1 Completion of the Application for Adoption Assistance (#032-02-060)

- 8.D.1.1 This form is completed by the adoptive parent(s). They will need a separate form for each child needing a subsidy.
- 8.D.1.2 The agency retains the original and a copy is kept by the adoptive parent(s).
- 8.D.1.3 The application form may be submitted to the agency before placement of the child but must be approved before the adoption has been finalized.
- 8.D.1.4 Income of the adoptive parents is not to be considered in determining eligibility for subsidy.

#### 8.D.2 Submission to the Local Board

**Local agencies may submit information related to adoption assistance agreements to local boards in accordance with agency procedures. The local board is responsible for ensuring the**

**adoption assistance agreement adequately provides for the needs of the child. Because subsidy must be provided to all children who are determined eligible, the local board does not have the authority to deny adoption assistance.**

8.D.3 Completing the Adoption Assistance Agreement (032-02-062/1)

The adoption assistance agreement:

- 8.D.3.1 Shall be signed before entry of the final order of adoption. This form is signed by the adoptive parent(s) and the local board representative after the plan for adoption assistance has been approved by the board. The original is kept in the adoption record. A copy is given to the adoptive parent(s). When the child is in the custody of a private agency, the adoption assistance agreement must also be signed by the private agency.

ACYF-CB-PA-01-01. A written adoption assistance agreement must be signed by all parties to the agreement and in effect prior to the finalization of the adoption for any child for whom title IV-E adoption assistance payments are made.
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- 8.D.3.2 The Virginia Administrative Code 22 VAC 40-260 requires that the adoption assistance agreement shall be executed within 90 days of receipt of the application for adoption assistance.
- 8.D.3.3 It shall specify the primary individual characteristic that made the child eligible for adoption assistance. Emotional bonding shall not be used as the primary characteristic unless it is the only individual characteristic that makes the child eligible for subsidy.**
- 8.D.3.4 It shall specify the duration of the agreement. The agreement cannot be terminated before the child's 18th birthday unless the parent(s) agree or ineligibility is evident. With the concurrence of the adoptive parents, however, a time limit for payments or services may be set depending on the needs of the child.

- 8.D.3.5 It shall specify the amount of payment and the services to be provided, including Medicaid, social services block grant services, and non-recurring expenses.
- D.3.5.1 For CSA foster children who will continue to receive Medicaid, the agreement must specify the special medical or rehabilitative needs of the child.
- D.3.5.2 In the event that the adoptive parents live in or move to another state, children receiving a IV-E subsidy will be eligible for Medicaid in the state where they reside. Children receiving state subsidy may be eligible for Medicaid, based on certain criteria (see 8.B.2.1).
- 8.D.3.6 The adoption assistance agreement may be adjusted with the concurrence of the adoptive parents, in the event of changes in the needs of the child. Changes in the agreement can be made at any time to pay for needs of the child that existed at the time of placement or that resulted from the child's foster care situation.
- 8.D.3.7 The agreement must specify that the interest of the child shall be protected should the adoptive parents and child move to another state while the agreement is effective.
- 8.D.3.8 The agreement shall remain in effect regardless of the state of which the adoptive parents are residents at any given time.

#### 8.D.4 Informing Adoptive Parents Of Their Right To Appeal

The agency shall inform adoptive parents, in writing, that they have the right to appeal decisions relating to the child's eligibility for subsidy and decisions relating to payments and services to be provided (refer to Part 9).

Title IV-E, Section 471(a)(12) of the Social Security Act. In order for a state to be eligible for payments under this part, it shall have a plan approved...which...provides for granting an opportunity for a fair hearing...to any individual whose claim for benefits...is denied or is not acted upon with reasonable promptness...
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#### 8.D.5 Completing the Placement Agreement - Adoptive Home (032-02-023/3)

The adoptive parent(s) must sign the adoptive home placement agreement before subsidy payments begin.

#### 8.E Step Five - Beginning Payments And Services

Payments and services can only be provided to adoptive parents who have entered into a written adoption assistance agreement. Payment and/or services may begin as soon as the child is placed in the adoptive home and an adoptive home placement agreement has been signed. A subsidy maintenance payment is not required for the child to receive Medicaid.

#### 8.F Step Six - Maintaining Responsibility

An adoption assistance agreement is a written agreement that is binding on the parties to the agreement. Both the adoptive parent(s) and the agency have responsibility related to the adoption subsidy agreement that must be met.

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement, binding on the parties to the agreement, between the state agency, other relevant agencies, and the prospective adoptive parents of a minor child.....

Section 63.2-1302, B, *Code of Virginia*. Maintenance subsidy payments and special need subsidy payments shall be made on the basis of a subsidy payment agreement entered into by the local board and the adoptive parents, or in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, licensed child-placing agency, and the adoptive parents.

#### 8.F.1. 22 VAC 40-260 requires the adoptive parents to:

- |         |   |
|---------|---|
| 8.F.1.1 | submit annually to the agency an affidavit which certifies that:          |
| F.1.1.1 | the child for whom they are receiving subsidy remains in their care;      |
| F.1.1.2 | they are legally responsible for supporting the child; and if applicable, |



F.1.1.3 the child's condition requiring subsidy continues to exist.

F.1.1.4 The affidavit must be **signed and notarized by at least one parent** and is all that is required for the agreement to remain in effect. The case does not have to be presented to the board for renewal and a new agreement is not necessary.

Section 63.2-1302.,B, *Code of Virginia*. Adoptive parents shall submit annually...an affidavit which certifies that (i) the child on whose behalf they are receiving subsidy payments remains in their care and (ii) the child's condition requiring subsidy continues to exist.

Title IV-E, Section 473(a)(3)...Parents who have been receiving adoption assistance payments...shall keep the state or local agency administering the program...informed of circumstances which would...make them ineligible for such assistance payments, or eligible for assistance in a different amount.

8.F.1.2 Submit copies of all bills or receipts for special service payments for which they are requesting reimbursement.

8.F.2 The agency or child placing agency shall:

8.F.2.1 Maintain responsibility for any payment or services identified in the agreement, regardless of where the family resides. The agency may request assistance from an agency in the family's locality to provide any direct services the family may need. If the assisting agency is not able to provide the service directly, the placing agency is financially responsible for purchasing the service.

Section 63.2-1302. C, *Code of Virginia*. Responsibility for subsidy payments for a child placed for adoption shall be continued in the event that the adoptive parents live in or move to another jurisdiction...

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement...which at a minimum...(B) stipulates that the agreement shall remain in effect regardless of the state of which the adoptive parents are residents at any given time...

- 8.F.2.2 Notify adoptive parents who are receiving subsidy that the annual affidavit is due. The notification letter shall be sent to the adoptive parents two months before the affidavit is due. The notification should inform the adoptive parent(s) that the affidavit is due and request that it be provided by the due date specified in the notification letter.

Section 63.2-1302. B, *Code of Virginia*. Failure to provide the annual affidavit may be grounds for suspension of the subsidy payment until such time as the affidavit is provided.

OASIS: The path to the cover letter & affidavit form is: Workload, Other, DocTrkg.

- 8.F.2.3 Ensure that the notarized affidavit has been returned. Failure to submit the affidavit **will** be grounds for suspension of the subsidy agreement until the information is provided. **Once the affidavit is received by the agency, retroactive payment will not be made to the adoptive parent(s) to cover the period of time the affidavit was outstanding.**

Section 63.2-1302, B, *Code of Virginia*. Failure to provide this information may be grounds for suspension of the subsidy payment until such time as the information is provided.

- 8.F.2.4 Notify the adoptive parent(s) in writing when an adoption assistance agreement has been terminated. **When there are two parents on an active adoption assistance agreement, both parents must be notified, even if the parents are separated.** The agreement cannot be terminated without the concurrence of the adoptive parent(s) unless one of the conditions described in 8.G.
- 8.F.2.5 Investigate all suspected cases of adoption assistance fraud.

Section 63.2-522, *Code of Virginia*. Whoever obtains, or attempts to obtain...by means of a willful false statement...or other fraudulent device, assistance or benefits from ...programs designated under rules and regulations of the State Board of Social Services...to which he is not entitled...is guilty of larceny, punishable under Section 18.2-95 of the *Code of Virginia*.

#### 8.G. Step Seven - Terminating The Subsidy Agreement

8.G.1 The Adoption Assistance Agreement shall not be terminated before the child's 18th birthday without the consent of the adoptive parents unless:

- 8.G.1.1 it is determined that the child is no longer receiving financial assistance from the adoptive parents; or
- 8.G.1.2 the adoptive parent(s) are no longer legally responsible for the child; or
- 8.G.1.3 the child's condition requiring subsidy no longer exists.

Section 63.2-1302. A ,*Code of Virginia*. Subsidy payments shall cease when the child with special needs reaches the age of eighteen years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(B) no payment may be made to parents with respect to any child if the state determines that the parents are no longer legally responsible for the support of the child or if the state determines that the child is no longer receiving any support from such parents.

8.G.2 The Adoption Assistance Agreement must be terminated when:

- 8.G.2.1 the child becomes 18 unless the child has:
  - G.2.1.1 a physical, mental, **or emotional** disability (based on DSM-IV classifications and written diagnosis) which warrants the continuation of assistance, or
  - G.2.1.2 an educational delay. This shall include educational delays resulting from a child's foster care circumstances and applies only to completion of high school.

G.2.1.3 If a child has one of the conditions in G.2.1.1, the IV-E or state agreement shall be continued until the child reaches the age of 21.

**G.2.1.4 If a child has a IV-E Adoption Assistance Agreement and educational delay is the sole reason for continuing the agreement, the agreement must be changed to a state agreement in order to continue after the age of 18. When an educational delay is the reason for continuing the agreement, the agreement shall be terminated at age 21 or when the child finishes high school, whichever comes first.**

Section 63.2-1302. A, *Code of Virginia*....If it is determined that the child has a mental or physical handicap, or an educational delay resulting from such handicap, warranting the continuation of assistance, subsidy payments may be made until the child reaches the age of twenty-one years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the state determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one)...

8.G.2.2 the agency determines that the child is no longer receiving financial support from the adoptive parents;

8.G.2.3 the adoptive parent(s) are no longer legally responsible for the child; or

8.G.2.4 the child's condition requiring subsidy no longer exists.

8.G.3 Death of adoptive parent(s) and **adoption dissolution**

**Adoption subsidy when adopted child and family are in Virginia:**

**8.G.3.1 When a IV-E adoption assistance child's adoptive parents die or adoption dissolves and the child is subsequently placed in another adoptive home, the child's IV-E eligibility can be reinstated for purposes of adoption assistance. The IV-E adoption assistance**

agreement can be reinstated, regardless of whether the child is placed in the subsequent adoptive home by an agency. The child does not have to re-enter foster care to be eligible for continued IV-E adoption assistance. Nor does there need to be an Adoptive Home Placement Agreement, as in non-agency placements.

- 8.G.3.2** The agency responsible for the initial adoption assistance agreement remains responsible for continuing the agreement when the child is placed directly by the adoptive parents in the subsequent adoptive home.

#### **Adoption subsidy in interjurisdictional adoptions**

- 8.G.3.3** When a IV-E adoption assistance child's adoptive parents die or the adoption dissolves and arrangements are made by the adoptive parents for subsequent adoption of the child by a family in another state, the new adoptive parents would apply for adoption assistance in their state of residence. The public welfare agency in that state is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and paying the subsidy.
- 8.G.4** The Adoption Assistance Agreement shall not be terminated if the child's condition improves but could deteriorate again. In this case, the agreement shall be suspended without a payment rather than terminated.
- 8.G.3.1** The agency must notify the adoptive parents in writing that payments will discontinue but that the agreement remains in effect.
- 8.G.3.2** If a future need arises, handle as a change in the needs of the child and amend the Adoption Assistance Agreement.
- 8.G.5** The adoptive parents must be notified in writing that the agreement has been terminated and that they have the right to appeal this decision.

## 8.H Step eight - Documenting pertinent information

8.H.1 The following information must be documented and kept in a separate subsidy file in the child's adoptive name. The information is needed for federal and state audits of the adoption assistance program. Failure to maintain the information could result in a child being found ineligible for adoption assistance and/or a loss of funding for the whole program. This information must be maintained on all children adopted with subsidy, even those whose adoptions are finalized out of state.

### 8.H.1.1 Documentation of the basis for the child's eligibility for subsidy

H.1.1.1 For SSI children, a copy of the notice of eligibility from the social security administration or a SSI payment stub.

H.1.1.2 For IV-E children, copies of all Foster Care Maintenance Evaluation forms (032-03-148/3) or intra-agency forms that document:

- (i) Initial eligibility for IV-E foster care. The form must be dated and signed.
- (ii) Eligibility redetermination for IV-E foster care that was applicable at the time the adoption petition was filed. This can be documented by the service worker's written certification that the income and resources of the child have not changed since the last redetermination or by using the foster care maintenance evaluation form. The certification and form must be dated and signed.
- (iii) IV-E payments made for children who entered foster care through a temporary entrustment agreement.

H.1.1.3 A copy of the initial court order or entrustment agreement:

- (i) If the child was committed by the court, the initial court order must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child. Reasonable efforts to prevent removal must be documented in a court order within 60 days of entry into care.
- (ii) If the child entered care through a permanent entrustment, there must be a subsequent court order approving the entrustment. The court order must be obtained within six months of the child's entrustment and must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child or that there is no less drastic alternative than removal of the child from the home;

#### 8.H.2 Documentation of Special Needs, including copies of:

- 8.H.2.1 The court order terminating parental rights. This documents that the child cannot return home.
- 8.H.2.2 The summary of the child's special needs including where relevant the child's placement history, family background, and personal characteristics.
- 8.H.2.3 Pertinent diagnostic reports.
- 8.H.2.4 The statement for selecting this particular family for the child.
- 8.H.2.5 A copy of the AREVA Child's Registration form. This documents that reasonable efforts were first made to place the child without subsidy. In some cases, reasonable efforts do not have to be made. One example of when reasonable efforts do not have to be made is when the child is being adopted by the foster parents. When reasonable efforts are not made, there must be documentation that justifies the

reason. The Application for Adoption Assistance documents this for children adopted by foster parents.

8.H.3 Documentation of adoptive placement, final order, and adoption assistance including copies of:

- 8.H.3.1 The Adoptive Home Placement Agreement (032-02-023/3).
- 8.H.3.2 The petition for adoption.
- 8.H.3.3 The order of reference.
- 8.H.3.4 The final order of adoption.
- 8.H.3.5 The child's original birth certificate.
- 8.H.3.6 The initial Adoption Assistance Agreement and all changes in the agreement.
- 8.H.3.7 All annual affidavits.
- 8.H.3.8 All bills submitted by the adoptive parents for reimbursement/payment.

8.I. Step Nine - Statistical Reporting and Financial Information

Adoption assistance payments may begin as soon as the child is placed in the adoptive home if the adoptive home placement agreement has been signed and the adoption assistance agreement has been approved and signed.

8.I.1 Statistical Reporting

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

8.I.2 Financial reporting

8.I.2.1 Warrant registers



A separate warrant register must be prepared for state subsidies, for IV-E subsidies, and for non-recurring expenses:

I.2.1.1 For state subsidies, the warrant register is entitled State/Local Special Need Adoption.

I.2.1.2 For IV-E subsidies, the register is entitled Subsidized Adoption IV-E.

I.2.1.3 For non-recurring expenses, the register is entitled Non-Recurring IV-E Expenses.

8.I.1.2 Expenditure reporting

**Local reimbursement of subsidy expenditures is done electronically through LANCER (Locality Automated System for Expenditure Reimbursement.) More information is available for local agencies in the *Finance and Administration Guidelines Manual for LDSS*, and the *LASER Expenditures Guidelines Manual*. Both are available at the DSS internal website, <http://www.localagency.dss.state.va.us/divisions/index.php3>.**

8.J Determining Eligibility After Legal Adoption

8.J.1 To be eligible for subsidy after legal adoption:

8.J.1.1 the child must have a physical, mental or emotional condition that was present at the time of adoptive placement and no more than one year has elapsed since the most recent diagnosis was made; or

8.J.1.2 the need for subsidy results from a hereditary tendency, congenital problem, or birth injury that could lead to a future disability and no more than one year has elapsed since the most recent diagnosis was made.

8.J.2 Procedures for the Child Whose Eligibility Is Established after Legal Adoption:

8.J.2.1 The application must be submitted **with a written diagnosis** that is not older than 12 months.

8.J.2.2 The application must be for a state subsidy.

**8.J.2.3 If there is an Adoptive Family Preservation Program (AFPP) in the area in which the applying adoptive family resides and the family is in crises, the agency should refer the family to AFPP for assessment and crisis intervention. This may assist in meeting the family's immediate needs, while the local agency proceeds with the application and eligibility process. The AFPP toll free number is 1-888-821-HOPE.**

8.J.2.4 Children for whom subsidy applications are made after finalization are not eligible for Medicaid.

8.J.2.5 Type of Payment

The payment may be for maintenance, special services, or both.

Section 63.2-1300. <i>Code of Virginia</i> . "Child with special needs" shall mean...This term shall also include a child for whom the factors set out in subdivision (b) 1 or (b) 2 are present at the time of adoption but are not diagnosed until after the final order of adoption is entered and no more than one year has elapsed.
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8.K The Interstate Compact on Adoption and Medical Assistance (ICAMA)

The 1985 Consolidated Omnibus Reconciliation Act (COBRA) passed by Congress mandated that states of residence provide Medicaid to all children adopted under Title IV-E adoption assistance, including children with adoption assistance agreements from other states. COBRA also provided states with the option of extending Medicaid to children adopted pursuant to state-funded adoption subsidy programs, if the child met certain criteria. This is referred to as the COBRA option. States were also given the option of reciprocating the COBRA option with other states.

The ICAMA, of which Virginia is a member, is the mechanism by which the 1985 COBRA is operationalized. ICAMA has the force of law within and among the member states and provides for uniformity and consistency of policy and procedures when a child with special needs is adopted by a family in another state or the adoptive family moves to another state.

Title IV-E, Section 475 (3) of the Social Security Act. The (adoption assistance) agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interest of the child in cases where the adoptive parents and child move to another state while the agreement is effective.

OASIS: All information on children who need ICAMA services must be entered into OASIS. The path is Workload, Adopt, Subsidy, ICAMA. The ICAMA forms can be printed from OASIS.

A child receiving adoption assistance that is placed across state lines for the purpose of adoption or moves with the adoptive family to another state after entry of a final order of adoption shall be eligible for Medicaid in their state of residence in certain situations. These situations are described below:

#### 8.K.1 When a Virginia Child Is Placed in or Moves to Another State.

8.K.1.1 The child shall be eligible for Medicaid in the new state of residence if:

K.1.1.1 the child has a IV-E Adoption Assistance Agreement; or

K.1.1.2 the child has a state Adoption Assistance Agreement and is continuing to receive Medicaid on the basis of the state Adoption Assistance Agreement, and

(i) the new state of residence is a party to the Interstate Compact on Adoption and Medical Assistance;

(ii) the new state of residence provides the COBRA option for children moving into their state; and

- (iii) the new state of residence and the adoption assistance state reciprocate the COBRA option.

8.K.1.2 Administration of the Interstate Compact on Adoption and Medical Assistance is handled by the Deputy Compact Administrator in the Adoption Unit at Central Office. The local agency shall:

K.1.2.1 Complete ICAMA Form 6.01 - Notice of Medicaid Eligibility/Case Activation. This form is used to certify to the child's eligibility for Medicaid in the state of residence:

- (i) For IV-E Adoption Assistance children, it is used to certify to the child's eligibility for Medicaid in the state of residence:
- (ii) For state children, the form certifies that Virginia has picked up the COBRA option to provide Medicaid to non-IV-E children receiving adoption assistance who have special medical or rehabilitative needs and provides reciprocity for non-IV-E children from other states that have also picked up the COBRA option.

K.1.2.2 Submit the ICAMA 6.01 to the Deputy Compact Administrator in the Adoption Unit, along with a copy of the initial adoption assistance agreement and the most recent update to the adoption assistance agreement.

OASIS: The ICAMA 6.01 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.01.

K.1.2.3 Complete ICAMA Form 6.02 - Notice of Action. Complete only the top portion of the form that identifies the adoptive parents and child, the date the child will be living at the new address and the new address. This form:

- (i) Is submitted to the Deputy Compact Administrator in the Adoption Unit, who completes the remainder of the form and forwards it to the adoptive parents.
- (ii) The form notifies the adoptive parents that the required paperwork and documentation necessary for issuance of a Medicaid Identification Document in the child's intended state of residence has been completed and mailed.

OASIS: The ICAMA 6.02 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.02.

8.K.1.3 The Deputy Compact Administrator will notify the agency, using ICAMA Form 6.03 Medicaid Case Activation, when a Medicaid case has been opened for the child in the new state of residence.

Medicaid in the child's originating state should be closed on the last day of the month the child leaves that state. The Medicaid case in the new residence state should open on the first day of the following month.

OASIS: The ICAMA 6.03 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.03.

8.K.2 When a child from another state moves into Virginia and is eligible for a Virginia Medicaid Card, the other state will complete the necessary forms and mail them to the Virginia Deputy Compact Administrator.

8.K.2.1 The Virginia Deputy Compact Administrator will notify the DSS in the locality where the child will be residing of the child's need for a Virginia Medicaid card.

8.K.2.2 The ICAMA Forms and accompanying documentation shall serve as the application for Virginia Medicaid.

## 8.L. Adoption Assistance For Children in The Custody of Private Agencies.

Section 63.2-1300, *Code of Virginia*. A “child with special needs” shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto....or (ii) in the custody of a licensed child-placing agency.....

When a child with special needs is in the custody of a child-placing agency licensed in Virginia, the public and private agency must work together to provide an adoption assistance agreement on behalf of the child. **Applications are submitted to the local DSS in the area where the adoptive family resides. If the adoptive family resides out of state, application would be made to the placing agency, who would work with the DSS in the city/county where the agency is located.** The steps to be followed and the responsible agency are outlined below:

## 8.L.1 Determine whether the child is a child with special needs.

The private agency:

- 8.L.1.1 determines that the child cannot be returned home;
- 8.L.1.2 determines that the child has at least one individual characteristic that makes the child hard to place (See to Part 8.A.2.2); and
- 8.L.1.3 makes a reasonable effort to first place the child without subsidy.

## 8.L.2 Determine whether the child will be eligible for IV-E or a State Adoption Assistance Agreement.

The private agency:

- 8.L.2.1 obtains necessary documentation; and
- 8.L.2.2 sends referral and documentation to the eligibility unit in the local department of social services. The referral should be made to the local agency in the same geographical location where the family resides.

The local agency:

- 8.L.2.3 screens the child and notifies the private agency of the child's eligibility for IV-E.

8.L.3 Family makes application for subsidy.

The private agency:

- 8.L.3.1 notifies local agency's service unit of family's interest in subsidy.

The local agency:

- 8.L.3.2 opens case on OASIS; and

- 8.L.3.3 sends forms to the family, negotiates needs with the family, obtain documentation of any necessary information. Both agencies need to be involved, working out together who takes responsibility for each function. The local agency has the final decision. Disputes between the agencies will be resolved by the regional office foster care and adoption specialist in the locality where the public agency is located.

8.L.4 Presentation of the Adoption Assistance Application to the local board:

The local agency, with involvement of private agency:

- 8.L.4.1 obtains all necessary documentation;

- 8.L.4.2 submits application package to the local board; and

- 8.L.4.3 obtains signatures on the adoption assistance agreement. The private agency signs the agreement with the local agency.

8.L.5 Begin payments and services

The local agency:

- 8.L.5.1 sends necessary information to the agency's fiscal officer and makes payments, using existing system. The private

agency provides all the services necessary for finalization of the adoption.

8.L.6 Submits monthly expenditure report.

The local agency is responsible for all reporting related to expenditures.

8.L.7 Maintain Responsibility After Adoption.

The local agency:

- 8.L.7.1 sends Notice of Annual Renewal;
- 8.L.7.2 increases the amount of maintenance payments when the child reaches a higher age group, if appropriate; and
- 8.L.7.3 makes changes in the adoption assistance agreement, when necessary. The local agency and private agency work cooperatively in making the changes.

The private agency:

- 8.L.7.4 provides case management services when the family moves out of state; and
- 8.L.7.5 provides direct services or coordinates the delivery of services for families receiving adoption assistance.



**Checklist for Exploring Resources  
to Defray Costs of Subsidy**

Before recommending any type of payment, all known resources must be explored to determine whether the costs of the child's special needs can be fully or partially defrayed. Some of these resources are:

1. Governmental Benefits To Which A Child May Be Entitled

- a. The child may be entitled to certain benefits because of the death or disability of a birth parent or adoptive parent. These include: Veterans Administration, Social Security, Railroad Retirement, etc.;
- b. If an adoptive parent is in military service, the child may be eligible for services under any existing military program.

2. Supplemental Security Income (SSI) Payments

SSI payments the child is receiving prior to adoptive placement may be continued after placement in the following circumstances:

- a. Before legal adoption, the income of the adoptive parents is not counted; however, because they are providing in-kind support to the child, the SSI payment can be reduced up to one-third of the regular amount;
- b. After legal adoption, the income and resources of the adoptive parents will be counted, using the same formula that would be applied to a birth child in the family unit;
- c. A SSI eligible child may receive both SSI payments and subsidy payments after adoption. However, Social Security will count the amount of Title IV-E adoption assistance paid to the parents and decrease the SSI benefit dollar for dollar by the amount of the subsidy payment.

3. Medicaid Coverage

- a. Medicaid coverage must be extended for children receiving a IV-E subsidy for as long as there is an adoption assistance agreement in effect. In some cases, Medicaid may not provide sufficient coverage to meet all of the child's needs. In this event, a special service payment may be used concurrently with Medicaid to pay for services not covered by Medicaid.

- b. Medicaid coverage for children receiving a State subsidy may be extended after adoption when:
          - 1) the child has a special medical or rehabilitative need and the child's own income and resources do not exceed the ADC or Medicaid income limit for a single person; or
          - 2) the income and resources of the adoptive family unit meet Medicaid eligibility requirements. In determining the family's eligibility for Medicaid, subsidy payments are not counted as income.
          - 3) Medicaid waiver service, if child is in a facility for 30 days or more.
4. Services Provided By Children's Specialty Services, State Department of Health

Children's Specialty Services may provide service for certain conditions on a flat-rate clinic fee basis or on a spend-down basis, depending upon the income level of the adoptive parents. Explore these services before approving a special service payment for the child's medical, psychiatric, or dental needs.
5. Hospital And Major Medical Insurance Plans

Any insurance plan carried by or available to the adoptive parent(s) may cover expenses for the child. If an additional premium or new policy could provide better coverage, the increased cost may be covered by a special service payment, paid directly to the adoptive parent(s).
6. Education Services

Local school divisions are responsible for providing free appropriate education to physically and mentally disabled children. This resource must be explored before a special service payment can be made for a child who is mentally retarded, learning disabled, or has minimal brain dysfunction. If the school division refuses to provide this service, document their refusal and contact the Division of Family Services, Adoption Unit.

**Local school divisions are financially responsible for all services specified in a student's Individualized Education Program, for those students not placed in private day or residential special education placements. Local school divisions also pay for aides/paraprofessionals providing instructional support and those specified in Virginia Special Education Regulations governing staffing, as well as evaluations associated with**

**special education. All services specified in a student's IEP for private day or residential special education placements are funded through CSA. The special education component of a private residential placement made for non-education reasons (e.g., foster care, court placement) is also funded through CSA.**

7. Virginia Birth-related Neurological Injury Compensation Program

This program assists parents in meeting expenses related to the disability of their child. For qualified children, the fund covers expenses not covered by insurance and other programs, and may include such items as medical or hospital expenses, rehabilitation, special equipment and lost wages. More information is available at 1-800-260-5352, or [www.vabirthinjury.com](http://www.vabirthinjury.com).

**PART 9  
APPEALS**

OASIS: Information on appeals must be entered into OASIS. The path is: Workload, Adopt, Subsidy, Appeals.

9.A. 22 VAC 40-270, Agency Placement Adoptions-Appeals, provides that adoptive applicants and adoptive parents shall have the right to appeal services and policy related issues including, but not limited to:

9.A.1 failure of the agency to provide full, factual information that the agency has about the child and the child's birth family, except information that would reveal the identity of the child's family of origin;

9.A.2 failure of the agency to inform the parents of the child's eligibility for subsidy;

9.A.3 agency decisions related to the child's eligibility for subsidy;

9.A.4 agency decisions related to subsidy payments and services;

9.A.5 agency decisions related to changing or terminating a subsidy agreement; and

9.A.6 agency decisions related to approval of the family as a prospective adoptive home.

Title IV-E, Section 471(a)(12). In order for a state to be eligible for payments under this part, it shall have a plan...which...provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness.

9.B. Adoptive applicants must be informed in writing of their right to appeal items 1-6 above. This notice must be given to adoptive applicants during the home study process. A copy of the Statement of Information shared with the family, which shows that this information was given to the family, must be maintained in the child's record.

### 9.C Appeals Process

Appeals shall be processed in accordance with procedures established by the Virginia Board of Social Services (See Volume VII, Section I, Chapter H) and in accordance with Section 63.2-517 of the Code of Virginia. There are three levels of appeal:

- 9.C.1        Agency Conference. This conference provides an opportunity for discussion of the problem at the agency. Whenever possible, issues should be resolved at this level.
- 9.C.2        Appeal. An appeal can be brought to the Hearing Authority in the State Department of Social Services instead of or after the agency conference. After reviewing the appeal request, the Hearing Authority may:
  - 9.C.2.1        Rule the appeal invalid;
  - 9.C.2.2        Rule the appeal valid and instruct the agency to take corrective action;
  - 9.C.2.3        Rule the appeal valid and grant a hearing.
- 9.C.3        Administrative Review. The Commissioner has established an Appeals Review Panel to review administrative hearing decisions upon the request of either the applicant or local board. The purpose of the panel is to make recommendations to the Commissioner regarding whether changes are needed in future policy or in the conduct of future hearings. The Review Panel cannot change the decision of the Hearing Officer. A request for review of the Hearing Officer's decision by the Appeals Review Panel must be submitted in writing within ten (10) days of receipt of the decision.

The applicant may appeal the decision of the hearing officer to the appropriate Circuit Court. Such appeal must be made directly with the appropriate court and not with the department.

Requests for appeals must be submitted to:

Appeals and Fair Hearings Unit  
Virginia Department of Social Services  
730 East Broad Street  
Richmond, VA 23219

**PART 10  
ADOPTIVE HOME STUDY****10.A Study of the Home**

Services for adoptive applicants begin with a study that involves the adoptive applicants in a process to determine with the agency whether they can meet the needs of an adopted child. The study should be carried out so that it brings about increased understanding of the process and begins to prepare the applicants for adoption.

**10.A.1 Preliminary Exchange of Information**

The initial step should include a preliminary exchange of factual information regarding:

- 10.A.1.1 agency requirements and the reasons for them;
- 10.A.1.2 the kind of children available;
- 10.A.1.3 time for completion of the study and placement;
- 10.A.1.4 pre-placement services, including method of study of adoptive homes;
- 10.A.1.5 post-placement services; and
- 10.A.1.6 legal procedures.

**10.A.2 Method of Study**

The study should consist of a series of interviews in which the adoptive applicants and the worker exchange factual information, discuss emotional factors involved in adoption, and come to recognize feelings and attitudes that may affect adoption. The study process should help to establish a relationship with applicants that will make it possible for the applicants to continue to use help both during the selection and placement of the child and the post-placement period.

Once a written application has been received, the study process must be carried through to completion unless the applicants request to withdraw their application. The request to withdraw should be made in writing and documented in the record.

**10.A.3 Evaluation of the Home**

The final decision about whether to approve a family for placement of a child should be the responsibility of the social work staff. It should take into consideration any findings of consultants from other professional fields. A decision to deny an application must be made in consultation with a unit supervisor or in unit staffings. The case

record must clearly document the standards which were out of compliance and the rationale for the decision.

42. U.S.C.-2000d, The Age Discrimination Act of 1975, prohibits discrimination based on race, color, national origin, age, or disability.
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#### 10.A.4 Informing Applicants of Decision

During the course of the study, the applicants should be kept aware of their status with the agency. They should be helped to decide for themselves whether adoption is suitable for them, and to withdraw their application, if this is advisable. Applicants should be informed of the final decision as soon as possible.

#### 10.B Assessment of the Family

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. The following criteria should be used as guidelines in completing an adoptive home study:

##### B.1 Motivation to Adopt

###### Key Considerations

- The degree to which the applicant(s) want to adopt
- If infertility is one reason for adoption, how have parents dealt with loss of biological child
- Messages parents have learned about adoption from their (other) experiences
- The degree to which other family members support adoption
- Perceived need adoption will meet for parents

###### Facts

- How long parents have considered adoption
- Reasons for adoption
- Who first spoke of adoption
- Reactions of spouse, children, significant others
- Fertility procedures undertaken
- Parents feelings about infertility
- How they've coped with the loss



- Prior experience with adoption
- Knowledge of adoption from other individuals/sources

#### Documentation

Notes from interviews with applicant that describe parents' reasons for adoption, their thoughts and feelings and perception of need adoption will meet and others' response to adoption

### B.2 Family Background and Family Relationships

#### Key Considerations

- Emotional maturity, stability, physical and mental capabilities
- Ability to cope with problems, disappointments and frustrations
- Capability to accept and handle loss
- Nature and duration of family relationships
- Ability to be flexible in their expectations of others and in their role as parents
- Ability to respond to the needs of others
- Ability to accept normal hazards and risks
- Capability to take responsibility for one's own actions
- Ability to commit to another individual
- Capability to know one's strengths and limitations
- Extended family's ability to accept an adopted child as an equal member of the family, entitled to all benefits and responsibilities

#### Facts

- Physical description
- Date, place of birth
- Information about parents and siblings (Names, ages, location, marital status, health status, education, current employment, ages of children of siblings, others living in parents' household)
- Current relationships with parents and siblings
- Childhood experiences:

- Parents' marital relationship
- Parental roles each assumed
- Disciplinary techniques
- Communication
- Interests/activities
- Expression of affection
- School experience
- Family values
- Religion
- Education
- Employment History
- Military service
- Health
- Mental health, counseling
- Hobbies/interests/community involvement
- Past losses and how they've coped
- Problem-solving style
- How individual's needs are met
- How difficult situations have been handled
- Amount of contact and degree of intimacy with nuclear and extended family member
- How individual has changed over time and how change has occurred, include examples of how individual has changed in response to needs of others
- Words used to describe self, strengths, limitations
- Individual's role/job in managing household
- How both positive and negative feelings are expressed
- Sources of support
- Extended family's response to adoption in general and to the particular child
- Language family members use about adoption

### Documentation

Notes from interviews with applicant and other family members, autobiography or other similar written exercises. Statement from counselor, where applicable and physician's statements/medical form.

### B.3 Adoption Issues

#### Key Considerations

- Ability to love, nurture and make a life-long commitment to a child not born to them
- Ability to accept the circumstances of a child's birth and birth family history
- Ability to demonstrate empathy for a child's birth parents
- Capacity to understand the life-long impact of adoption and to help child deal with the adoption issues of identity, loss, intimacy, control, and attachment
- Ability to understand the relationship between child development and adoption
- Capacity to develop a sense of entitlement to parent a particular child and to "claim" that child as an equal member of their family
- Capacity to accept professional and personal support
- Ability to lower expectations of child in response to child's needs
- Ability to maintain contact with significant others in child's life (including birth and former foster families and siblings)
- Willingness and ability to talk openly and comfortably about child's adoption with the family
- Understanding of search laws and willingness to offer on-going support to child if he/she decides to search
- Understanding of how attachments are formed and willingness to work at forming healthy attachments with a child even when they resist it

#### Facts

- Types of long-term commitments family has made in the past which have endured over time, especially during high stress times
- Knowledge of unique experiences and losses of adopted children and how they effect children's development and how children's developmental stage effects their response to trauma

- Type of life experiences that demonstrate understanding of why people make different choices than they do or are unable to make good choices and ability to show care and concern for people when they make those choices
- Words parents use to describe birth parents and why child placed for adoption
- Parents' response to core issues in adoption, how they impact them, child and birth parents and their ideas about how to deal with them
- Parents' perception of how they and child will change over time
- Parents' expectations, hopes and plans for child
- How parents define "family"
- Language parents use about adoption
- Examples of circumstances when parents have lowered expectations of others and still maintained close relationship with them
- How parents have changed over time and what provoked those changes
- Types of risks parents are willing to take
- Level and types of convictions parents have maintained with family and friends
- Parents' use of outside supports
- Knowledge of search laws and parents' feelings about search
- Examples of parents' abilities to delay gratifications
- Types of attachments parents have formed in the past
- Families' understanding of the risks associated with adoption
- How applicant plans to tell child about his/her adoption
- What the parents do if they do not want the child in the home any more
- Examples of the types of people that the parents have given up on before
- Examples of what will make parents want to "give up" on their child

#### Documentation

Notes from interviews with applicant, autobiography of application or other similar written information.

#### B.4 Quality of Marital and Other Relationships

##### Key Considerations

- Capacity to develop and maintain long-term relationships
- Capacity of the relationship or the single parent to sustain high levels of stress and change
- Degree of openness in the family system
- Ability to solve problems and make decisions (jointly, if married)
- Degree to which communication is open, clear, sensitive to others' needs, reflective of true feelings, responsive to the situation, consistent with behavior and effective
- Presentation of an accurate "picture" of family relationships and interactions

##### Facts

- Relationships with friends (length, effort made to maintain contact, how much they accept and give help and support)
- Problem-solving and decision-making styles of parent(s)
- For single parents, who do they consider, related or non-related a part of their family system
- The length of marriage. How family talks about both negative and positive events and feelings
- The ways in which affection and anger are demonstrated. How conflict is resolved
- Pattern of communication and degree to which it meets the individuals' needs
- What are marital roles? Strength and weakness and how complement each other
- What makes these people stay married to each other. Previous marriages; when and why marriage ended; what learned from experience, what do they do when they spend time together?
- If been to marriage counseling, how long and what issues addressed

##### Documentation

Autobiography notes from interviews. Reference letters, marriage/divorce certificates (where applicable).

## B.5 Parenting Skills

### Key Considerations

- Parenting style and approach to discipline
- Relationship between how you were parented and how you will or do parent
- Applicant's understanding of physical, developmental, emotional need of children
- Applicant's understanding of the impact of adoption on children in the home and family routines
- Ability to develop and adjust realistic expectations of children
- Ability to separate their needs from child's needs
- Ability to communicate effectively
- Ability to assume responsibility for care, guidance, protection of children
- Willingness to try new parenting approaches in order to more effectively meet child's needs and manage behavior
- Willingness to formulate a plan for child's care, if one or both parents are deceased

### Facts

- Experience with children
- Applicant's communication and problem-solving style
- Types of nurturing behaviors applicants demonstrate
- Applicant's views of children, anger and types of behaviors they are most/least comfortable with
- How family routine will be affected by adoption
- Applicant's plans for child, in the event of the applicant's death
- How family expresses affection and anger
- Knowledge of child development and changing needs and expectations of children over time
- Methods of discipline used
- Expectations of children

- Family routine
- Description of parenting style of family of origin (discipline, communication, values, experience of affection and anger, history of abuse/neglect)
- Criminal and child abuse/neglect history
- Description of children in home (age, developmental and emotional needs, perceived impact of adoption)
- How applicant identifies his/her needs, how they separate their needs from needs of others and how they get their needs met
- Self-esteem of applicant
- Examples of how applicant is able to delay gratification
- Examples of how applicant has been open to new ideas and has been willing to try a new approach to problems they have been faced with

#### Documentation

Autobiography or other similar exercises, notes from interviews, reference letters, and corporal punishment statement.

#### B.6 Home and Community

##### Key Considerations

- Health and safety of environment

##### Facts

- Space for play and privacy
- Accessibility of community resources
- Description of house and neighborhood
- Description of family's proximity to community resources
- A written evacuation plan in case of fire
- Cleaning supplies and other toxic substances are stored away from food and out of the reach of children
- Water supply and sewage disposal system meets local ordinances.

#### Documentation

Notes regarding worker's observations

## B.7 Financial Circumstances

### Key Considerations

- Ability of applicant to meet the financial needs of adopted child and family

### Facts

- Financial resources of applicant
- How applicant manages those resources

### Documentation

Financial statement, employer's verification (see sample employer's reference letter)

## B.8 Type of Child Applicant Can Parent

### Key Considerations

- What applicant needs from a child and ability of child to meet that need
- Ability of applicant to meet special needs of children
- For Parental Placements adoption, applicant's ability to manage legal and emotional risks and maintain ongoing contact with birth parents
- For intercountry adoption, applicant's ability to manage health risks and unknown background of child
- For Special Needs adoption, applicant's ability to manage special needs of the child

### Facts

- Types of behaviors and background issues applicant is most/least comfortable with and able to handle
- Applicant's description of child(ren) they want to adopt
- Worker's assessment of the needs of the applicant and the degree to which those needs can be met by the type of child requested
- Worker's assessment of the needs of the child and the degree to which those needs can be met by the applicant

### Documentation

Written summary of worker's assessment



## 10.C Restrictions On The Provisions of Adoption Services To Agency Staff and Other Individuals

State laws restrict the provision of adoption services in the following situations:

### 10.C.1 Home Studies and Placement Supervision

When an individual who has major decision-making responsibilities for children in the agency's care applies to adopt a child, he/she shall be referred to another child-placing agency for study and placement supervision. The individuals include Board members, agency directors, supervisors, and social workers.

## 10.D Adoptive Home Standards

The State Board of Social Services has established standards for prospective adoptive homes.

63.2-217, Code of Virginia. The State Board shall make such rules and regulations....as may be necessary or desirable to carry out the true purpose and intent of this title.

### Definitions

"Adoptive parent(s)" means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption. Standards apply to adoptive parents until the final order of adoption is issued.

"Adult" means any individual 18 years of age or over.

"Agency" means the local welfare/social service agency.

"Child/children" means any individual under 18 years of age or any individual who is in the custody of a local welfare/social service agency and is 18 to 21 years of age.

"Child protective service central registry" means the centralized system in Virginia for collecting information on complaints and dispositions of child abuse and neglect.

"Corporal punishment" means any type of physical punishment inflicted in any manner upon the body of a child including but not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

"Parent/guardian" means the biological or adoptive parent or legal guardian(s) of a child.

#### 10.D.1 Age

The Adoptive applicant shall be at least 18 years of age.

#### 10.D.2 Criminal records

10.D.2.1 The adoptive applicant(s) and adult household members who come in contact with the child shall

identify any criminal convictions and be willing to consent to a criminal records search.

10.D.2.2 Application

The Application for Agency Approved Provider, 032-02-138, requires the adoptive applicant to identify any criminal convictions. The applicant must sign the Application to indicate his/her willingness to consent to a search of criminal records.

10.D.2.3 Whose Record to Search

A statewide criminal record search must be done on the adoptive applicant and all other adult household members. This must be done regardless of the response about criminal records on the Application. These searches should be repeated at the time of renewal.

10.D.2.4 Information From Local Police Records

Local police have access to any available criminal history record information. The local agency should explore what criminal record information is available through the local police. Information, if available, may be on local convictions only, on statewide convictions, or on convictions from other states. In exploring this question with local police, the local agency should also determine what authorization is necessary from the person whose record is being searched. Due to rules about dissemination or the effort involved in searching, the local police may not be willing to search statewide criminal history record information for the local agency.

10.D.2.5 Information From the Central Criminal Records Exchange To Include Criminal History Search and Sexual Offender Registry

Virginia State Police maintain criminal history record information for arrests and convictions in Virginia. If the local police are not able or willing to conduct the statewide search, the Central Criminal Records Exchange should be queried by using the form entitled Criminal History Record Request, SP-230.

Adoptive Parent Applicants

By State Code (§19.2-389), a local agency can obtain, without cost, conviction and arrest information from the Central Criminal Record Exchange on

adoptive parents. No notarized statement is necessary. No fee is charged.

Section 19.2-389, A, 8, Code of Virginia. Criminal history record information shall be disseminated...only to:...Public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.
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10.D.2.6 Criminal Record Information From Other States

If not available through the local police, criminal record information on arrests and convictions occurring in other states may be obtained from the state where the provider or household member resided if the other state's law allows information to be disseminated.

10.D.2.7 The adoptive applicant and any adult household members who come in contact with clients shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of clients.

10.D.2.8 Information Received From the Central Criminal Record Exchange

If no record exists on the individual, the Central Criminal Records Exchange will stamp and return the form to indicate that.

If a record exists, the information furnished on a "rap" sheet will include identifying information, contributing agency, date of occurrence, charge, and disposition. Information on adoptive parents will include arrest as well as conviction information. Information on all household members will only include information on convictions.

The Central Criminal Records Exchange does not contain information on certain offenses. These include driving a motor vehicle, etc, while intoxicated; disorderly conduct; trespassing after being forbidden to do so; and class III and IV misdemeanors (such as gambling, slander, drunk in public, etc.).

10.D.2.9 Determining When Criminal Convictions Jeopardize Clients

An adoptive applicant must be denied if the applicant or any adult household member who comes in contact with child has been convicted of:

- (i) murder;
- (ii) abduction for immoral purposes (Section 18.2-48, Code of Virginia);
- (iii) criminal sexual assault (Section 18.2-61-67.10, Code of Virginia);
- (iv) pandering (Section 18.2-355, Code of Virginia); or
- (v) obscenity offenses.

An adoptive applicant must be denied if the applicant or any adult household member who comes in contact with the children has been convicted of:

- (vi) failing to secure medical attention for an injured child (Section 18.2-371.1, Code of Virginia);
- (vii) crimes against nature involving children (Section 18.2-361, Code of Virginia);
- (viii) taking indecent liberties with children (Sections 18.2-370 and 18.2-370.1, Code of Virginia);
- (ix) abuse or neglect of children (Section 18.2-371, Code of Virginia);
- (x) felony conviction of a crime against children, including incest (Section 18.2-366, Code of Virginia);
- (xi) felony conviction of assault and battery against a family or household member (Section 18.2-57, Code of Virginia); or
- (xii) felony convictions for physical assault or battery other than against a family or household member (Section 18.2-51, Code of Virginia), or
- (xiii) drug-related offenses within the past five years.

10.D.2.10 The local agency will need to exercise judgment in the approval or denial of adoptive applicants where convictions of other felonies and misdemeanors are found. The adoptive applicant's record should document the reasons for the approval or denial. No denial should be based solely on arrest information where no conviction has been made.

10.D.2.11 Confidentiality of Criminal Record Information

D.2.4.1 By State Code, criminal record information can only be used for the purpose intended. It must not be shared with anyone other than the individual identified in the record. For example, conviction information on a household member cannot be shared with the adoptive applicant. However, the adoptive applicant could be told that he is being denied because this standard is not met.

D.2.4.2 By State Code (§19.2-389, A, 8), however, information on adoptive parents may be shared with a federal or state authority or court only if required to comply with a requirement in law for such dissemination.

10.D.3 Division of Motor Vehicle Records

The adoptive applicant shall provide a current DMV record. This record can be obtained from any local office of DMV but must be requested by the adoptive applicant.

10.D.4 Child abuse or neglect record

10.D.4.1 The adoptive applicant and adult household members who come in contact with child shall consent to a search of the child protective service central registry.

D.4.1.1 Application

The Child Protective Services Release of Information Form, (032-02-141/4), is required for all adult household members who come in contact with the child to consent to a search of the central registry.

D.4.1.2 When to Search

A search must be done for initial approval of an adoptive applicant.

A search may be repeated at the time of renewal. If a local agency has a good communication system between the CPS staff and staff approving adoptive applicants, staff who approve adoptive applicants may already be aware of any

investigations done on individuals applying to adopt.

#### D.4.1.3 Routine Search of Central Registry

A copy of the completed Child Protective Services Release of Information Form, (032-02-141/1), is sent to the Central Office Child Protective Service Central Registry through courier service. The agency staff person should be sure that information on the application is legible and that the agency information is on it, and the applicant signs the form before a notary public.

Central Registry staff will check the adoptive applicant and other appropriate individuals to determine if the registry contains information. They will return the copy of the application with information on the findings on the same form.

#### D.4.1.4 Emergency Search of Central Registry

If an applicant is being considered for Emergency Approval, the local agency can request the search by telephone using the matrix code. The Release of Information Form, must then be forwarded to the Central Registry within five days.

- 10.D.4.2 The adoptive applicant or adult household members who come in contact with the child shall not have a founded child abuse or neglect record in the child protective service central registry.

#### 10.D.5 Interview, references, and employment history

- 10.D.5.1 The adoptive applicant shall participate in interviews with the agency. At least one interview with must occur in the applicant's home at the time of the initial approval and at renewal. All household members should be interviewed.

- 10.D.5.2 The adoptive applicant shall provide a minimum of three references from persons who have knowledge of the applicant's ability, skill, or experience in child care and who shall not be related to the applicant.

#### D.5.2.1 Application

The adoptive applicant must list three references on the Application For Agency Approved Provider, 032-02-138/1).

**D.5.2.2 Follow-up**

The local agency must check references for the initial approval. References do not need to be rechecked at renewal.

The local agency may contact references by telephone, face-to-face interview, or request a reference in writing. References which are not written must be documented in the adoptive applicant's record by the worker.

**10.D.5.3 The adoptive applicant shall provide information on employment history.****D.5.3.1 Application**

The adoptive applicant must list previous employment on the Application of Agency Approved Provider.

**D.5.3.2 Employer Reference**

The local agency may check employment by telephone, face-to-face interview, or request it in writing.

**10.D.5.4 The agency will use the interviews, references, and employment history to assess that:**

**D.5.4.1** The adoptive parent(s) demonstrates a capacity to love and nurture a child born to someone else;

**D.5.4.2** The adoptive parent(s) can accept the child for his own sake without expecting him to resolve family problems or fulfill family ambitions;

**D.5.4.3** The married adoptive parents show marital stability and mutual satisfaction with each other.

**10.D.5.5 Adoptive parents shall disclose financial information****D.5.5.1 Financial information must include:**

- (i) income from all sources
- (ii) savings and investments
- (iii) property
- (iv) debts

**D.5.5.2** The purpose of this is to determine the financial ability of the adoptive parents to support a child.

**10.D.6 Training**

The adoptive applicant shall attend any orientation and training required by the agency.

10.D.6.1 The local agency should provide, at a minimum, some basic orientation to the adoptive applicant.

10.D.6.2 The local agency may provide any additional training it feels necessary.

**10.D.7 Medical requirements**

The adoptive applicant shall submit the results of a physical examination performed by a licensed physician, or local health department, within the past twelve months.

10.D.7.1 The physical examination shall address whether the adoptive applicant has any communicable diseases, to include tuberculosis, HIV, and AIDS.

10.D.7.2 If the local agency needs verification to determine if the adoptive applicant is mentally capable, the agency should request a mental health examination.

10.D.7.3 The physical or mental health examination may be paid by the local agency as an administrative cost charged to services.

**10.D.8 Discipline of children**

During the adoptive supervisory period, the adoptive applicant shall not use corporal punishment. Corporal punishment includes but is not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

**10.D.9 Physical accommodations**

10.D.9.1 The home shall be sufficient to ensure the on-going safety and health of the child.

10.D.9.2 The home shall be in compliance with all local ordinances.

**10.D.10 Capacity**

10.D.10.1 There is no specific limit on the number of children adoptive parents can adopt. The local agency should assess the adoptive parents and their family composition on a case-by-case basis. Where there may be a question about family size, the assessment should include:



- D.10.1.1 The capacity and real desire of the parent(s) to extend parenthood to another child(ren);
- D.10.1.2 The parent's ability to cope with and seek help for any problems that might occur as a result of the introduction of another child(ren) into the family (problems such as rivalry between children);
- D.10.1.3 The needs of the children in the home and the child(ren) to be placed for adoption;
- D.10.1.4 The adjustment of a newly introduced child with the other children; and
- D.10.1.5 Adequacy of space and living conditions in the home to promote the health, safety, well-being, and self-respect of the family.

#### 10.D.11 Approval Regulations

##### 10.D.11.1 Approval period

The approval period for an adoptive applicant is 24 months.

##### D.11.1.1 Application

An application for agency approved provider, should be completed by each applicant provider for the initial approval. It is not necessary for a renewal.

If there is no need for a family for health infants, the local agency does not have to take an application but should refer the family to a licensed, child-placing agency.

If the agency has any children in foster care who are unlikely to return home or be placed with relatives, the agency must accept all applications from families interested in adopting children with special needs.

The application, once received, should be investigated as quickly as possible.

A copy of the standards should be given to each applicant provider.

##### D.11.1.2 Compliance form

A compliance form for agency approved provider (032-02-139A/2), should be completed for each provider. Part b of this form is only applicable to the out-of-home provider. This must be used to document compliance with standards for foster parents.

#### D.11.1.3 Expiration of approval period

The expiration date for the approval period should be set for the last day of the month in which approval is granted and be two years hence unless the approval is emergency, provisional, or suspended.

#### 10.D.12 Allowable Variance

The adoptive applicant may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the child or violate federal, state, or local law.

##### 10.D.12.1 Procedures for requesting a variance

D.12.1.1 The local agency makes the decision as to whether or not to request a variance. The applicant cannot request a variance without the local agency's agreement.

D.12.1.2 The local agency should submit a written request for a variance.

D.12.1.3 The request must be signed by the local agency director.

D.12.1.4 The request should be directed to the appropriate regional office.

D.12.1.5 The request should specify, at a minimum:

- (i) The standard(s) for which a variance is requested,
- (ii) The length of time for which a variance is requested,
- (iii) What specific reasons or circumstances exist in the situation that justify requesting the variance, and
- (iv) What precautions are being taken to ensure the safety and protection of clients.

##### 10.D.12.2 Approval or denial of a variance

The decision of the regional office is final unless changed as a result of an appeal.

### 10.D.13 Renewal Process

The agency will re-approve the applicant prior to the placement of a child if the home study is older than 24 months.

The following areas do not need to be reexamined unless the local agency feels there is a need:

#### 10.D.13.1 Application

No renewal application is necessary.

#### 10.D.13.2 Child Protective service central registry

D.13.2.1 This check is not necessary if the local agency maintains good communication between staff approving providers and child protective service staff.

D.13.2.2 If the local agency does recheck the central registry, a new application does not need to be signed to do the search.

#### 10.D.13.3 Medicals

#### 10.D.13.4 References

#### 10.D.13.5 Employment history

10.D.13.6 The compliance form for agency approved provider, should be used to document the renewal process. It must be used to document renewal for foster parents.

### 10.D.14 Revocation of approval

If the adoptive applicant does not continue to meet standards, the approval must be revoked.

### 10.D.15 Notification of action

The local agency must notify the adoptive applicants in writing, specify the reasons for revocation, and indicate the applicant's right to file a grievance. The appendix contains a sample letter.

### 10.D.16 Right to Appeal

The adoptive applicant shall have the right to appeal the actions of the agency. Refer to Part 9 for information on the appeals process.

### 10.D.17 Local Agency Record Keeping

10.D.17.1 The local agency must maintain a separate file on each approved adoptive applicant.

D.17.1.1 The file should contain:

- (i) Application for agency approved provider, 032-02-138, or another form of an application.
- (ii) Compliance form for agency approved provider, 032-02-139a.

D.17.1.2 Other information

Other information includes medical statements, CPS central registry check, criminal record check, and correspondence.

OASIS: All agency adoptive applicants need to be entered into the Resource Subsystem of OASIS when they are approved.

**PART 11  
FORMS**

Copies of the adoption forms listed immediately below are provided in the following pages:

- Permanent Entrustment Agreement
- Adoption Progress Report
- Adoptive Home Placement Agreement
- Consent to Adoption
- Commissioner's Confidential Report
- Adoptee Application for Disclosure & Guidelines
- AREVA Child's Registration Form
- AREVA Family's Registration Form
- AREVA Change of Status Form
- Application for Adoption Assistance
- Adoption Assistance Agreement
- Affidavit for Adoption Assistance
- ICAMA Form 6.01
- ICAMA Form 6.02
- ICAMA Form 6.03
- Application for Agency Approved Provider
- Request for Search of Central Registry
- Criminal History Record and Sex Offender Search
- Compliance Form for Agency Approved Provider
- Legal Process Flowchart for Agency Placement Adoptions

The following forms are available in OASIS:

- Adoption Progress Report
- AREVA Child's Registration Form
- AREVA Family Registration Form
- AREVA Change of Status Form
- Annual Affidavit
- ICAMA 6.01, 6.02, 6.03

The following forms are available as Word documents at <http://www.localagency.dss.state.va.us>. At this sit, double click "Support Information for OASIS" and access "Child Welfare Forms/Documents."

- Adoptive Home Placement Agreement
- Adoption Assistance Agreement
- Consent Form
- Commissioner's Confidential Report
- Application for Adoption Assistance
- Report of Investigation
- Agency Approved Provider Compliance Checklist
- CPS Release of Information
- Criminal History Record Request
- Adoptee Application for Disclosure